

SENATOR  
**KRISTIN PHILLIPS-HILL**  
CO-CHAIR



REPRESENTATIVE  
**MIKE STURLA**  
CO-CHAIR

## **BASIC EDUCATION FUNDING COMMISSION**

### **HEARING AGENDA**

**September 13, 2023 – 9AM**

**North Office Building, Hearing Room #1  
Harrisburg, PA**

- 9:00 a.m. Call to Order and Opening Remarks
- Rep. Mike Sturla, 96<sup>th</sup> Legislative District
  - Sen. Kristin Phillips-Hill, 28<sup>th</sup> Senatorial District
- 9:10 a.m. Panel One:
- Dan Urevick-Ackelsberg, Senior Attorney, The Public Interest Law Center
  - Maura McInerney, Legal Director, Education Law Center
  - David McAndrews, Superintendent, Panther Valley School District
  - Brian Costello, Superintendent, Wilkes Barre School District
- 9:50 a.m. Questions & Answers
- 10:10 a.m. Panel Two:
- Mike Griffith, Senior Researcher and Policy Analyst, The Learning Policy Institute
  - Danielle Farrie, Research Director, Education Law Center of NJ
- 10:40 a.m. Questions & Answers
- 11:00 a.m. Closing Remarks and Adjournment



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**Testimony of Dan Urevick-Ackelsberg  
Senior Attorney, Public Interest Law Center  
September 13, 2023**

Chair Sturla, Chair Phillips-Hill, and Members,

It has been my honor, and the honor of my colleagues and co-counsel, to represent the school districts, organizations, and families that brought Pennsylvania's school funding litigation.<sup>1</sup>

In my testimony I offer you some guidance on what the Court decided, including some familiar school funding myths it considered and rejected. Second, I outline how this Commission can put the Commonwealth on a path to constitutional compliance. Third, I explain what the Supreme Court and Commonwealth Court alike have said about the primacy of education under our constitution.

I have also attached to my testimony a selection of topics that the Court covered in its decision. Those are not intended to be complete, but to assist the Commission in discerning what the Court held, and why.

**I. How the Court ruled and why**

**A. Every child can learn**

Much of the Court's opinion in this case rested upon a foundational understanding: "**every child can learn**, regardless of individual circumstances, with the right resources."<sup>2</sup> Once you accept this basic tenet, which was true in 1874 when the guarantee of a thorough and efficient education was added to the Constitution, and which as "[a]ll witnesses agree[d]" at trial, is true today,<sup>3</sup> everything that follows is clear.

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<sup>1</sup> The Petitioners in the case were William Penn School District, Panther Valley School District, Shenandoah Valley School District, Greater Johnstown School District, Wilkes Barre Area School District, and the School District of Lancaster. They were joined by the NAACP-Pennsylvania State Conference, the Pennsylvania Association of Rural and Small Schools, and families.

<sup>2</sup> *William Penn Sch. Dist. v. Pennsylvania Dep't of Educ.*, 587 M.D. 2014 (Feb. 7, 2023), Slip. Opinion ("Op.") at 717-18.

<sup>3</sup> Op. at 778.

**B. Children are being deprived of the resources you all have deemed “essential”**

If all children can learn with the right resources, the next logical question is whether they have those resources: the “courses, curricula and programs, staffing, facilities, and instrumentalities of learning” that the Court held to be the components of an effective, contemporary system.<sup>4</sup>

And the Court concluded they do not. Instead, the Court held that because of the way we fund our schools, students are being deprived of the very resources you all have “identified as essential to student achievement, some of which are as basic as safe and temperate facilities in which children can learn.”<sup>5</sup> In fact, the Court found that educators were “being forced to choose which few students would benefit from the limited resources they could afford to provide, despite knowing more students needed those same resources.”<sup>6</sup>

Educators were not asking the Court to bestow upon them money for something frivolous or radical. Rather, they were seeking sufficient resources to use tried and true methods to teach their children to read, to become skilled at math, and to ready themselves for college or a family-sustaining career as engaged, able citizens.

**C. The funding system is failing**

The Court recognized that to determine how our system is faring, one must also ask how our students are actually doing. And the Court concluded that “[t]he effect of this lack of resources shows in the evidence of outcomes,” including unacceptable results on state assessments, AP exams, and SATs; low high school graduation rates and post-secondary enrollment and attainment rates; and poor marks on other measures, such as rigorous courses of study.<sup>7</sup>

Ultimately, despite knowing that all children can learn, our system has failed to sufficiently prepare many of them for success in life. The Court explained why: Because the funding system has created “manifest deficiencies” in the resources all agreed were essential.

**D. The system’s failures are particularly placed upon the shoulders of low-income children and children of color**

These failures are not felt evenly. As Pennsylvania Department of Education witnesses readily admitted at trial, the Commonwealth has some of the largest

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<sup>4</sup> Op. at 774.

<sup>5</sup> *Id.*

<sup>6</sup> *Id.*

<sup>7</sup> *Id.*

achievement gaps in the nation, for low-income students, Black students, and Latino students. By way of example, for years, less than twenty percent of Black children have been proficient in math. Just twenty percent of Black, Latino, or low-income graduates of Pennsylvania public schools will go on to get a two- or four-year post-secondary degree. In fact, these gaps are so big that PDE could not even set uniform goals for all student subgroups in its ESSA plan. That means that “even were Pennsylvania to achieve all of its goals by 2030 — which the Department admits will not happen without additional funding — significant achievement gaps will remain throughout the system.”<sup>8</sup>

PDE was clear in its testimony at trial that the decision to set different goals for different groups of students “was not because of any belief about the innate ability of certain students, but rather a recognition of the depth of existing inequities within Pennsylvania’s school funding system itself.”<sup>9</sup> As the former Deputy Secretary of Education testified: “The very starting point is a reflection of the historic inequities in our system that have created the conditions.”<sup>10</sup>

#### **E. The failures are caused by a system that is heavily reliant on local wealth, which fails to account sufficiently for student need**

And so because all children can learn, but many are being deprived of resources and of the most important opportunities of their lives, the Court reached the only logical conclusion: Our educational funding system is broken to such a degree that it is unconstitutional. It is unconstitutional because it is a “system that is heavily dependent on local tax revenue, which benefits students in high-wealth districts,”<sup>11</sup> and because our funding method “does not adequately take into account student needs, which are generally higher in low-wealth districts”<sup>12</sup>

In other words, it is a system where opportunity is too often defined by the fortune of your neighbors. Low-wealth districts aren’t underfunded in Pennsylvania because their communities don’t try hard to support their schools. In fact, as a group, they try the hardest. Low-wealth districts are underfunded because their communities are low-wealth. And that, the Court ruled, violates our charter of government.

#### **F. The solution cannot be found in hot-button Pennsylvania issues of the past**

In its decision, the Court either directly or indirectly addressed virtually every common dispute raised in Pennsylvania school funding debates. The Court’s decision:

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<sup>8</sup> Op. at 578.

<sup>9</sup> *Id.*

<sup>10</sup> *Id.*

<sup>11</sup> Op. at 769.

<sup>12</sup> *Id.*

- Held that the Constitution requires a contemporary, comprehensive, effective *public* education for every child;
- Found that charter schools perform no better in the current funding system than district schools;
- Found that national comparisons of Pennsylvania school spending are often inaccurate;
- Found that federal COVID aid was important, but could not solve our long-term problem; and,
- Found that district fund balances were needed and not the cause of inadequacy.

## **II. How the Commission can help bring the system into compliance**

Past education commissions have provided meaningful final products, including the creation of the Fair Funding Formula itself just a few years ago by the Basic Education Funding Commission. But the system remains unconstitutional despite those efforts. Accordingly, we offer four core recommendations for how this Commission can provide a real roadmap for making this system constitutional.

### **A. Create serious adequacy targets for what schools need in order to provide their students a comprehensive, effective, contemporary education**

The Commission’s foundational task is to calculate how much funding each school district needs to provide all children a comprehensive, effective, and contemporary education, no matter their needs and no matter where they live, such that students can succeed in life and meet state goals. As Leader Cutler’s expert witness in this matter has explained: “[t]o design a funding system that effectively supports the state’s education goals, states should first establish clear, measurable targets for student achievement and then determine and provide the necessary education funding to achieve these goals.”<sup>13</sup>

What Petitioners’ expert Dr. Kelly has made clear is that through the Fair Funding Formula and Special Education Funding Formula, the Commission already has an established pathway to accomplish this. We know the costs relative to need in those districts that are performing well. It is now incumbent to bring all districts to that level, such that they can all provide adequate opportunities to their students. Serious adequacy targets will not only help solve the system’s constitutional deficiencies in the long-term, but will end the year-after-year budget fights that have sometimes paralyzed the Commonwealth.

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<sup>13</sup> Op. at 538, FOF ¶ 2153.

**B. Determine a fair and equitable “state share” for those targets, so that all school districts can reach adequate funding at a reasonable tax effort**

The Commission must also identify a feasible, equitable approach for determining a state share that enables school districts to meet their adequacy targets. As the Court explained, low-wealth school districts in Pennsylvania cannot tax their way to sufficient funding, and generally have the highest tax rates in the Commonwealth. Ultimately, establishing a thorough and efficient system of education is the Commonwealth’s responsibility, and even “recitations of the need for local control cannot relieve the General Assembly of its exclusive obligation under the Education Clause.”<sup>14</sup>

**C. Address funding for special education, pre-Kindergarten and facilities, among other things**

The Court’s opinion made plain the Constitution requires adequate funding for all aspects of public education, from pre-Kindergarten programs to appropriate facilities.

Money is fungible. When the Commonwealth fails to adequately fund one component of the system, school districts often respond by diverting funds from another. At trial, the then-Chief Financial Officer of the School District of Philadelphia, now the Commonwealth’s Budget Secretary, explained how this trade-off works in practice:

If I don’t do that roof, it means I can afford to keep teachers in the school or certain resources or purchase more computers or whatever the — it — you’re constantly making choices and trying to get one more year out of that roof, trying to get one more year out of whatever. Eventually that deferred maintenance its going to catch up to you, especially across a broad array of systems.<sup>15</sup>

It is critical to consider how Pennsylvania ensures all aspects of this system are adequately funded. Dr. Kelly has provided a method for calculating adequacy for basic education and special education that folds in a number of other critical line items, from CTE funding, to transportation funding, to charter school reimbursements. And he calculated the cost of fully funding Pre-K Counts across the Commonwealth.

**D. Meet the urgency of the problem**

We did not create the deficiencies that plague our system in a year, and we will not dig ourselves out of them in a year, either. The task of bringing our public education

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<sup>14</sup> Op. at 770.

<sup>15</sup> Op. at 361.

system into compliance requires all of us to articulate a clear vision for the future, and an action plan to rebuild school buildings and teacher pipelines, alike. But it also requires an urgent solution now. A child is in Kindergarten once, and once only. In fact, if she was starting Kindergarten in one of our districts when this lawsuit was filed, she would be entering high school this month, having spent her entire childhood in underfunded schools. We cannot let another generation of children pass by before getting this right.

### **III. The primacy of education means that sufficiently funding schools is a mandate, not a choice**

The undertaking ahead of you is no small order, and it will require a significant investment of resources. Dr. Kelly's estimate, for example, requires approximately a 20% increase in current expenditures statewide. But education's central place in the Constitution means that no matter the difficulty, your duty remains.

The Supreme Court explained this once before, when in 2017 it ruled for Petitioners, and sent the case back to Commonwealth Court to conduct discovery and hold a trial. The Court acknowledged then that you all have a tough job, remarking that there are surely "many competing and not infrequently incompatible demands [you] face to satisfy non-constitutional needs, appease dissatisfied constituents, and balance a limited budget in a way that will placate a majority of members in both chambers despite innumerable differences regarding policy and priority."<sup>16</sup> But the Supreme Court was clear that the constitutional mandate to provide a thorough and efficient system of public education was non-negotiable, and that the courts would "monitor the General Assembly's efforts in service of its mandate and . . . measure those effects against the constitutional imperative, ensuring that non-constitutional considerations never prevail over that mandate."<sup>17</sup>

These efforts were measured at trial, and found to be insufficient: the Commonwealth Court ruled that you all "have not fulfilled [your] obligations to all children under the Education Clause," and that "[s]tudents who reside in school districts with low property values and incomes are deprived of the same opportunities and resources as students who reside in school districts with high property values and incomes."<sup>18</sup>

Still, the Court explained it was giving all of you the opportunity to make this right in the first instance: that it was "only reasonable to allow Respondents, comprised of the Executive and Legislative branches of government and administrative agencies with

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<sup>16</sup> *William Penn Sch. Dist. v. Pennsylvania Dep't of Educ.*, 170 A.3d 414, 464 (Pa. 2017).

<sup>17</sup> *Id.*

<sup>18</sup> *William Penn Sch. Dist. v. Pennsylvania Dep't of Educ.*, 587 M.D. 2014 (Feb. 7, 2023), Order at 2.

expertise in the field of education, the first opportunity, in conjunction with Petitioners, to devise a plan to address the constitutional deficiencies identified herein.”<sup>19</sup>

The Court’s judgment is also an opportunity for you all to claim the mantle of history. The forefather of Pennsylvania’s modern educational system was one of our most cherished citizens: Thaddeus Stevens. In 1834, while defending the earliest form of our statewide system from an attempted repeal by the Pennsylvania House, Stevens implored his colleagues to take “lofty ground, look beyond the narrow space which now circumscribes our vision, beyond the passing, fleeting point of time on which we stand and . . . cast our votes” so that the “blessing of education shall be conferred on every son of Pennsylvania: carried home to the poorest child of the poorest inhabitant of the meanest hut of your mountains, so that even he may be prepared to act well his part in this land of freedom.”<sup>20</sup>

What this moment calls for is plain: to make the blessing of education work for every citizen. The reward for that effort is not simply compliance, but rather a stronger economy, stronger families, stronger communities, and a stronger Commonwealth.

We stand ready to work with this Commission to live up to the Court’s command, and to our Commonwealth’s promise to its future fellow citizens.

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<sup>19</sup> Op. at 775-76.

<sup>20</sup> *The Famous Speech of Hon. Thaddeus Stevens of Pennsylvania in Opposition to the Repeal of the Common School Law of 1834, in the House of Representatives of Pennsylvania, April 11, 1835, 12.*

- I. The Pennsylvania Constitution requires the General Assembly to provide all children with a comprehensive, contemporary, effective public education.....1**
  - A. The standard: “A comprehensive, effective, and contemporary system of public education” for all.....1**
  - B. There are “essential elements” of a contemporary, effective system that all children must have. ....1**
  - C. A thorough and efficient system requires measuring whether the system is providing sufficient resources for all children and then curing any inadequacies .....3**
  - D. A thorough and efficient system must decouple local wealth and adequate funding. ....3**
- II. Pennsylvania’s system of school funding is unreasonable, irrational, and inequitable. ....4**
  - A. Pennsylvania’s educational system is overly reliant on local taxpayers. 4**
  - B. Low-wealth districts need the most, try the hardest, and have the least.....5**
  - C. All children can learn. Some children require more resources in order to learn. ....6**
  - D. Increased funding improves student outcomes. ....6**
- III. Petitioners and low-wealth districts have insufficient educational resources to provide a thorough and efficient education to their students. ....8**
  - A. Low-wealth districts lack sufficient funding. ....8**
  - B. Low-wealth districts lack sufficient courses, curricula, and other programs that “help students become college and career ready.” .....9**
  - C. Low-wealth districts lack sufficient staff. ....10**

- D. Low wealth districts lack sufficient, adequate facilities. ....11**
- E. Low-wealth districts lack sufficient instrumentalities of learning, from technology to books .....12**
- IV. The school funding system is causing failure.....13**
  - A. As a result of inadequate levels of funding, student outcomes in Pennsylvania are unacceptable across every measure.....13**
  - B. As a result of underfunding, economically disadvantaged, students of color, and other historically marginalized children are being left behind.....14**
- V. The Commonwealth is responsible for solving this failure. ....16**
  - A. The Legislative and Executive Branches must solve this problem. 16**
  - B. Local control is an illusion when you have insufficient funding. 16**
- VI. The opinion busted Pennsylvania school funding myths. ....17**
  - A. The pandemic shed greater light on historic disparities in school funding, but one-time federal aid did not fix them. ....17**
  - B. The hold harmless debate is a symptom of an inadequately funded system. ....19**
  - C. Charter schools fare no better in the system, and result in “stranded costs” that must be taken into account. ....19**
  - D. A “silent recession:” State funding increases have failed to keep up with inflation and increases in mandated costs. ....20**
  - E. Fund balances are imperative for sound fiscal management and not the cause of inadequate resources. ....20**
  - F. National comparisons and national figures on PA spending are not accurate.....21**

**I. The Pennsylvania Constitution requires the General Assembly to provide all children with a comprehensive, contemporary, effective public education.**

**A. The standard: “A comprehensive, effective, and contemporary system of public education” for all.**

- “[I]t is clear from the history of the Education Clause that the system of public education was intended to reach as many children as possible. Moreover, it is equally apparent that children must be provided a meaningful opportunity to succeed...The Court concludes that the appropriate measure is whether **every** student is receiving a **meaningful opportunity** to succeed academically, socially, and civically, which requires that **all** students have access to a comprehensive, effective, and contemporary system of public education.” Op. at 634.
- “The Education Clause, article III, section 14 of the Pennsylvania Constitution, requires that every student receive a meaningful opportunity to succeed academically, socially, and civically, which requires that all students have access to a comprehensive, effective, and contemporary system of public education.” Order ¶ 1.
- “[T]he Court finds it unnecessary to define the constitutional standard beyond that it requires that every student receive a meaningful opportunity to succeed academically, socially, and civically, by receiving a comprehensive, effective, and contemporary education. As discussed more fully below, it is apparent to the Court, based upon the credited testimony and evidence, that every student is not receiving that opportunity.” Op. at 676; *see also* Op. at 646, 709; 729; 773-74; 775; 776-77 (repeating standard).

**B. There are “essential elements” of a contemporary, effective system that all children must have.**

- There “are essential elements of a thorough and efficient system of public education[:]  
– adequate funding; courses, curricula, and other programs that prepare students to be college and career ready; sufficient, qualified, and effective staff; safe and adequate facilities; and modern, quality instrumentalities of learning.” Op. at 705
- “As the parties agree that the Court must examine the inputs into the system of public education in order to evaluate its constitutionality, the Court begins with those. The most obvious input is funding, and the resources provided to students are also inputs, such as courses and curricula, staff, facilities, and instrumentalities of learning.” Op. at 676.

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- “Through its ESSA Plan and elsewhere, the Department has identified strategies that will help students become college and career ready, best ensure student success, and close achievement gaps.

Those strategies include:

- a. high quality pre-K;
- b. a sufficient number of effective teachers to meet student needs and a stable teaching force;
- c. early intensive resources provided from kindergarten to 3rd grade that focus on the concepts of literacy, mathematics, and numeracy;
- d. professionals in math and reading to provide remediation, including reading specialists, and Multi-tiered Systems of Support (MTSS) that work to identify those students who are in need of additional interventions and provide those interventions;
- e. personalized learning experiences that encourage school systems to focus on individual needs;
- f. Positive Behavior Interventions and Support (PBIS) and similar programs to address emotional needs;
- g. a sufficient number of school counselors;
- h. school libraries and school librarians;
- i. Advanced Placement (AP), International Baccalaureate (IB), and college-level courses;
- j. programs to increase school attendance;
- k. after-school programs;
- l. access to art and music; and
- m. extracurricular activities to develop leadership skills, collaboration skills, persistence skills, and resiliency.” Op. at 64-65, FOF ¶ 249.

- The General Assembly has itself directed funding toward strategies such as early intervention, pre-K, and the student needs targeted by Ready-To-Learn Block Grants, which include smaller class sizes and increases in technology instruction. Op. at 633, citing FOF ¶¶ 314-15; *see also* Op. at 102-04, FOF ¶¶ 401, 404, 406, 407 (importance of high quality early education); *id.* 35, FOF ¶¶ 136-39; *id.* 37, FOF ¶¶ 145-251; *id.* 69, FOF ¶¶ 266-289; *id.* 81, FOF ¶ 314; *id.* 104, FOF ¶¶ 408-430; *id.* 166, FOF ¶ 681; *id.* 389, FOF ¶ 1727; *id.* 456, FOF ¶¶ 1971-1980; *id.* 487, FOF ¶ 2040; *id.* 488, FOF ¶ 2042; *id.* 534, FOF ¶ 2142-48; *id.* 538, FOF ¶ 2154; *id.* 540, FOF ¶ 2157.

**C. A thorough and efficient system requires measuring whether the system is providing sufficient resources for all children and then curing any inadequacies.**

- “Whether the system of public education is ‘thorough and efficient’ and ‘serv[ing] the needs of the Commonwealth,’ PA. CONST. art. III, § 14, necessarily requires an examination, not just of the inputs, but also the outcomes. Otherwise, there would be no way to gauge the adequacy of the system, and whether it is working to provide the opportunity to succeed to all students.” Op. at 707.
- “[S]ome level of qualitative assessment is necessary to determine whether the State is meeting its obligation to provide an adequate education. This assessment is an intrinsic part of our power to interpret the meaning of the constitution’s language. . . . The very act of defining the terms used in the Education Clause and determining whether the constitutional requirements have been met inevitably requires a measure of qualitative assessment.” Op. at 675 (quoting *Cruz-Guzman v. State of Minnesota*, 916 N.W.2d 1 (Minn. 2018)).
- “[A]ny plan devised by Respondents at the Court’s direction will have to provide all students in every district throughout Pennsylvania, not just Petitioners, with an adequately funded education, i.e., a ‘thorough and efficient’ one.” Op. at 608.

**D. A thorough and efficient system must decouple local wealth and adequate funding.**

- Crediting testimony from Mr. Willis acknowledging, “that the touchstone principle in the evaluation of a school funding system is ‘that there should be little to no relationship between local wealth . . . and the amount of resources available to a local school district.’” Op. at 510, ¶ 2095.
- “Applying strict scrutiny, the Court concludes Petitioners have established an equal protection violation. No compelling government purpose has been espoused for the disparities identified between low-wealth and high-wealth school districts. Even applying the less stringent intermediate or rational basis scrutiny, the Court would conclude that there is no rational basis for such disparities.” Op. at 775.
- “The evidence demonstrates that low-wealth districts like Petitioner Districts, which struggle to raise enough revenue through local taxes to cover the greater needs of their students, lack the inputs that are essential elements of a thorough and efficient system

of public education – adequate funding; courses, curricula, and other programs that prepare students to be college and career ready; sufficient, qualified, and effective staff; safe and adequate facilities; and modern, quality instrumentalities of learning.” Op. at 705.

- “Based upon the evidence presented, it is evident to the Court that the current system of funding public education has disproportionately, negatively impacted students who attend schools in low-wealth school districts. This disparity is the result of a funding system that is heavily dependent on local tax revenue, which benefits students in high-wealth districts. It is also impacted by a funding formula that does not adequately take into account student needs, which are generally higher in low-wealth districts. As a result, students in low-wealth districts do not have access to the educational resources needed to prepare them to succeed academically, socially, or civically.” Op. at 769.

## **II. Pennsylvania’s system of school funding is unreasonable, irrational, and inequitable.**

### **A. Pennsylvania’s educational system is overly reliant on local taxpayers.**

- “Dr. Kelly found a substantial variation in both components of the Aid Ratio: property wealth and income wealth . . . . Examining Petitioner Shenandoah Valley and the New Hope-Solebury School District, a high-wealth school district, Dr. Kelly showed that if both districts taxed their residents at 19.1 equalized mills (the state mean for 2018-19), Shenandoah would generate \$3,396 per Weighted Average Daily Membership (WADM), while New Hope-Solebury would generate 6 times more, at \$20,851 per WADM. Dr. Kelly testified that the disparity in wealth between the districts is so great that even if Shenandoah Valley taxed its residents at the highest millage rate in the state, and New Hope-Solebury taxed itself at the lowest, New Hope-Solebury would still generate about three times more revenue per WADM.” Op. at 421-23, FOF ¶¶ 1883-84.
- “[T]he fact remains that public schools are heavily reliant on local funding. While approximately one-third of school funding revenue comes from the state, more than half generally comes from local sources, primarily in the form of local property taxes. As a result of this heavy reliance on local funding, low-wealth districts are negatively impacted. As Dr. Kelly illustrated, districts with the same equalized millage rate can generate significantly different amounts based on property wealth and income wealth. While a solution may seem evident – raise taxes to generate more revenue – as witnesses for the individual Petitioner Districts, all of which would be considered low wealth, credibly testified, they already tax at higher rates than the wealthier districts,

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and increasing taxes has, on occasion, decreased revenue. Moreover, the tax increases do not keep pace with rising costs.” Op. at 677; *see also* Op. at 97, FOF ¶ 379; *id.* 121, FOF ¶ 479; *id.* 421-22, FOF ¶¶ 1883-1884.

- “Low-wealth districts across the state are forced to make these difficult decisions because, although the Education Clause imposes a duty on the General Assembly to maintain and support a thorough and efficient system of public education, PA. CONST. art. III, § 14, as discussed, the system is heavily dependent on local tax revenue, which the lower wealth districts cannot generate like their more affluent counterparts.” Op. at 697-98.

**B. Low-wealth districts need the most, try the hardest, and have the least.**

- “Dr. Kelly credibly testified that when measured by equalized mills, low-wealth Pennsylvania districts have substantially higher tax rates than high-wealth Pennsylvania school districts even though the poorest Pennsylvania school districts also have the greatest percentage of high-need students.” Op. at 423, FOF ¶ 1885.
- “Dr. Kelly credibly testified Pennsylvania has one of the largest gaps of any state in the country in per child spending between the Commonwealth’s poorest and wealthiest districts.” Op. at 423-24, FOF ¶ 1887.
- “Dr. Kelly explained that according to the need metrics embedded in the Fair Funding Formula, the student body of the poorest quintile of Pennsylvania districts has a need for 38% additional funding, while the student body of the wealthiest quintile of districts has a need for only 11% additional funding. Dr. Kelly stated this pattern is consistent across wealth quintiles.” Op. at 429, FOF ¶ 1889.
- “Low-wealth districts have more students with higher needs, Op. at 423, ¶ 1886; and less funding, *id.* 423-24, FOF ¶ 1887; *id.* 425, FOF ¶ 1891; *id.* 706.
- “Mr. Willis conceded that, overall, Petitioner Districts have below average household incomes, are in high poverty communities, serve a higher-needs population than the state on average, and make higher than typical tax effort.” Op. at 510, ¶ 2096.

**C. All children can learn. Some children require more resources in order to learn.**

- Former Deputy Secretary Stem testified that “[t]he Department’s position is that when presented with the high quality resources and appropriate instruction and all the other elements of an effective school system, that every child can be successful.” Op. at 65, FOF ¶ 251.
- “Dr. Koury was one of several expert witnesses on both sides to testify that some children need more educational resources, such as supports and services, to learn than those children who do not have specific needs.” Op. at 540, FOF ¶ 2157.
- “In short, these statistics confirm what numerous witnesses testified as to: every child can learn, regardless of individual circumstances, with the right resources, albeit sometimes in different ways.” Op. at 717-18.
- “[T]he General Assembly has recognized these differing needs, and the necessity of additional funding, through its provision of such additional funding to those students and school districts that educate students who require additional services. This recognition culminated in the Fair Funding Formula, which distributes funds, at least in part, on a weighted basis, taking into consideration certain needs-based factors, such as poverty, ELL students, charter school attendance, and sparsity....” Op. at 633-34.
- *See also* Op. at 534, FOF ¶ 2142 (“Mr. Willis testified the challenges from poverty are not insurmountable. He acknowledged that there are key strategies and interventions that have been proven to improve students’ outcomes, especially among at-risk, low-income students.”); *id.* 565, FOF ¶ 2206 (Dr. Hanushek “agreed that the challenges of poverty are not insurmountable if the resources are used well.”); *id.* 448-49, FOF ¶ 1953 (“Dr. Barnett testified there is nothing immutable “about a child being born into poverty that condemns that child to low achievement.” He opined that “it’s much easier to prevent and more cost-effective to prevent the children from falling far behind than it is to remediate the problem later.”).

**D. Increased funding improves student outcomes.**

- “From these statistics, the Court concludes that money does matter, and economically-disadvantaged students and historically underperforming students can overcome challenges if they have access to the right resources that wealthier districts

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are financially able to provide. This is consistent with Dr. Noguera's credible testimony that additional school resources can dramatically reduce disparities that exist between low-income children and their more affluent peers, as well as Dr. Johnson's credible testimony that sustained increases in funding can help eliminate achievement gaps between economically-disadvantaged students and their non-economically-disadvantaged peers. In short, these statistics confirm what numerous witnesses testified as to: every child can learn, regardless of individual circumstances, with the right resources, albeit sometimes in different ways." Op. at 717-18, *see also* Op. at 28, FOF ¶103; *id.* 38, FOF ¶ 151; *id.* 310, FOF 1329, *id.* 448, FOF ¶ 1953; *id.* 457, FOF ¶ 1973; *id.* 485, FOF ¶ 2035; *id.* 486, FOF ¶ 2037.

- "The most obvious input is funding, and the resources provided to students are also inputs, such as courses and curricula, staff, facilities, and instrumentalities of learning. These resources inevitably are tied to funding to some degree, so the Court begins there." Op. at 676.
- "The Court credits, and is persuaded by, Mr. Willis's testimony that supports conclusions related to the importance of school funding in improving student outcomes through the implementation and sustaining of interventions and strategies." (listing strategies) Op. at 534-37, FOF ¶¶ 2141-48; *see also* Op. at 540, FOF ¶ 2157.
- "The wealthier the quintile, the more likely economically-disadvantaged students are to graduate from college. These findings are not limited to the subset of economically-disadvantaged students, but also hold true for other historically underperforming student subgroups, which include ELL students and students with disabilities. For example, historically underperforming students in high-wealth districts outperform their peers in low-wealth districts, 45.1% to 25.2%." Op. at 717; *see also* Op. at 438, FOF ¶¶ 1920, 1922; *id.* 581-584, FOF ¶¶ 2238-2240; *id.* 588, FOF ¶ 2047; *id.* 601-602, FOF ¶¶ 2278-2279.
- "[E]conomically-disadvantaged students who attend a wealthier district outperform their peers in less wealthy districts by 16 to 20 percentage points. Dr. Kelly's analysis, which the Court credits, showed that 62% of economically-disadvantaged students meet state ELA/literature standards in the wealthiest quintile compared to only 42.6% in the poorest, 43.1% meet math/algebra standards in the wealthiest quintile compared to only 24.5% in the poorest, and 67.2% meet science/biology standards in the wealthiest compared to only 51% in the poorest. Performance improves across each of the quintiles. The wealthier the quintile, the more likely economically-disadvantaged students are to graduate from college. These findings are not limited to the subset of economically-disadvantaged students, but also hold true for other historically

underperforming student subgroups, which include ELL students and students with disabilities. For example, historically underperforming students in high-wealth districts outperform their peers in low-wealth districts, 45.1% to 25.2%.” Op. at 716-717.

- “Dr. Kelly testified economically-disadvantaged students that graduate from a wealthier quintile district go on to graduate from college within six years at higher rates than economically-disadvantaged students attending a district in the poorest quintile, as the below chart illustrates.” Op. at 602, FOF ¶ 2279; *see also* Op. at 437, FOF ¶ 1917, *id.* 581-584, FOF ¶¶ 2238-2240; *id.* 585, FOF ¶¶ 2242-43; FOF ¶¶ 2278-2279.

### **III. Petitioners and low-wealth districts have insufficient educational resources to provide a thorough and efficient education to their students.**

#### **A. Low-wealth districts lack sufficient funding.**

- “The Costing Out Study, and the subsequent calculation of adequacy shortfalls, even if for only three years, does demonstrate a legislative recognition that there was a funding inadequacy. . . . The Court finds the Costing Out Study, the subsequent calculation of adequacy targets and shortfalls, the BEF Commission, the Fair Funding Formula, and the Level Up Formula, all credibly establish the existence of inadequate education funding in low wealth districts like Petitioners, a situation known to the Legislature.” Op. at 678.
- “Low-wealth districts cannot generate enough revenue to meet the needs of their students, and the pot of money on which Legislative Respondents allege they sit is not truly disposable income.” Op. at 681.
- “Based upon the evidence presented, it is evident to the Court that the current system of funding public education has disproportionately, negatively impacted students who attend schools in low-wealth school districts. This disparity is the result of a funding system that is heavily dependent on local tax revenue, which benefits students in high-wealth districts. It is also impacted by a funding formula that does not adequately take into account student needs, which are generally higher in low-wealth districts. As a result, students in low-wealth districts do not have access to the educational resources needed to prepare them to succeed academically, socially, or civically.” Op. at 769.

- “The evidence demonstrates that low-wealth districts like Petitioner Districts, which struggle to raise enough revenue through local taxes to cover the greater needs of their students, lack the inputs that are essential elements of a thorough and efficient system of public education – adequate funding; courses, curricula, and other programs that prepare students to be college and career ready; sufficient, qualified, and effective staff; safe and adequate facilities; and modern, quality instrumentalities of learning.” Op. at 705.
- “Educators credibly testified to lacking the very resources state officials have identified as essential to student achievement, some of which are as basic as safe and temperate facilities in which children can learn. Educators also testified about being forced to choose which few students would benefit from the limited resources they could afford to provide, despite knowing more students needed those same resources. The effect of this lack of resources shows in the evidence of outcomes, which also must be considered to determine if the system is “thorough and efficient” and to give effect to the phrase “to serve the needs of the Commonwealth.” Op. at 774.

**B. Low-wealth districts lack sufficient courses, curricula, and other programs that “help students become college and career ready.”**

- “Thorough and efficient” programming entails, according to the state’s own education officials includes, but is not limited to:
  - curricula that “align[s] with state standards,” Op. at 683;
  - AP, IB, or college-level courses that “help students become college and career ready,” Op. at 683;
  - art and music, and other extracurricular activities and sports that “help students develop leadership, collaboration, and persistence skills,” Op. at 682;
  - “early intensive resources for kindergarten to third grade focusing on literacy, mathematics, and numeracy, remediation in math and reading and other intervention services,” including small group instruction, tutoring, and social and emotional learning, Op. at 685; and
  - high quality early childhood education and pre-K, which state education officials testified was “particularly important for children living in poverty,” Op. at 688.
- “Low-wealth districts, such as Petitioner Districts, often lack the staff to implement such programs. When they do have such staff, it is not enough to meet the needs of their students.” Op. at 685-86.

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- “[S]ome districts’ curricula does not align with state standards, despite Board regulations requiring same, because they lack the resources – money, personnel, and time – to revise them. Petitioner Districts largely lack dedicated curriculum writers and instead pay their teachers to help write the curriculum.” Op. at 683.
- “Dr. Costello of Wilkes-Barre stated that many students cannot take AP classes that may be offered ‘because of their track. . . . [F]rom elementary school on, there was an achievement gap and we didn’t have the necessary resources to get those individuals or those children up to speed so that they were able to be set up in a situation where they would be able to succeed in a math sequence that would allow for them to enter AP courses. ‘Dr. Rau of Lancaster, Dr. Hite of SDP, and Ms. Harbert of William Penn echoed this sentiment.” Op. at 684.
- “The availability of tutoring and afterschool programs also does not meet the demand.” Op. at 685.
- “Although more than 29,000 children participated in the state-run Pre-K Counts program as of December 2021, the Department estimates it only serves approximately 40% of the students who would be eligible.” Op. at 688-89.
- “The above is just a small sampling of how courses, curricula, and programs are lacking.” Op. at 690.

#### **C. Low-wealth districts lack sufficient staff.**

- “Another component of a thorough and efficient system of public education about which there appears to be no dispute involves teachers, specifically sufficient, well-trained, and experienced ones. . . . In many of the Petitioner Districts, teachers have to teach multiple classes of different subjects simultaneously. For example, at Shenandoah Valley, there were more than 10 teachers conducting multiple classes of different subjects to different students at the same time. It is beyond cavil to say that this is not effective learning.” Op. at 690.
- “Petitioners presented credible evidence that smaller class sizes can improve student achievement. The Department even provides Ready-to-Learn Block Grants to promote, among other strategies, smaller class sizes. Numerous expert witnesses also testified as to its importance.” Op. at 694.

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- “The Court heard extensive credible testimony from educational professionals and experts as to how other professional staff, such as administrators, guidance counselors, social workers, nurses, psychologists, and other support staff, including instructional aides, interventionists, reading specialists, and tutors help students succeed. As an example, former Deputy Secretary Stem testified that reading and math specialists improve student achievement and educational outcomes. In addition, there was evidence that low-income students often require more support, so an adequate number of counselors is needed to meet those needs. In its ESSA Plan, the Department identified the importance of employing a sufficient number of effective teachers to meet student needs, and also professionals in math and reading to provide remediation services and other types of intervention, and school librarians, as a few of the strategies that could improve student outcomes.” Op. at 694.
- “While it is true that there was testimony that several of the districts have some of these personnel, there was also testimony that it was the bare minimum required by law, of an insufficient quantity to actually meet student needs, or was funded through outside sources or one-time ESSER funds, which districts have been cautioned against using for such purposes.” Op. at 695.

#### **D. Low-wealth districts lack sufficient, adequate facilities.**

- “Another component of a thorough and efficient system of public education that is generally not in dispute is the need for facilities. However, it is not enough that the facilities in which students learn are ‘generally safe,’ as Legislative Respondents contend. Rather, they must be safe, and adequate. The Department and State Board have identified adequate facilities as being conducive to learning. Dr. Noguera also testified that quality and cleanliness of facilities are important for academic achievement. Yet, credible testimony was presented to the Court of makeshift classrooms set up in hallways, closets, and basements, insufficient numbers of nearby restrooms to serve students, and schools without functioning heat and air conditioning.” Op. at 698.
- “In addition, the Court has concerns whether all the facilities are, in fact, safe.” Op. at 701.
- “Former Deputy Secretary Stem testified there are districts in Pennsylvania, especially lower-wealth districts, that face serious safety concerns related to exposed asbestos and lead in school buildings. Moreover, former Deputy Secretary Stem has

pointed out that “existing funding sources are not sufficient to remediate those types of issues.” Op. at 110, FOF ¶ 432.

- “Former Deputy Secretary Stem identified poor air quality and ventilation and inadequate classroom space as other facility problems that impact student learning. Former Secretary Ortega testified that the inadequate conditions in these school buildings are “connected to inequities that exist because of the way the funds are made available to our schools.” Op. at 110, FOF ¶ 433.

**E. Low-wealth districts lack sufficient instrumentalities of learning, from technology to books**

- “[I]nstrumentalities of learning are an essential element of a quality public education in the Commonwealth, though they are not as rudimentary as Legislative Respondents suggest. In the 21st century, students need more than a desk, chair, pen, paper, and textbooks, (some of which are outdated in Petitioner Districts) for such items do not constitute a thorough and efficient system of public education under any measure. Education must evolve if students are to be provided a meaningful opportunity to succeed academically, socially, and civically. That is the only way students will meet the ever-changing needs of the modern-day workforce and become productive members of society, as our forebearers had envisioned.” Op. at 702-03.
- “Many districts that were not one-to-one with laptops or tablets before the pandemic, like Greater Johnstown, are presently, due to ESSER funds, but now districts are faced with other challenges. Dr. Arcurio testified to being “ke[pt] up at night” because she does not know what Greater Johnstown will do once ESSER funds expire, as it does not have the money to otherwise maintain or replace the Chromebooks.” Op. at 703-04.
- “Moreover, there was evidence that even one of the most basic instrumentalities of learning – textbooks – are not up to par. Multiple Petitioner Districts testified to possessing classroom sets of textbooks that multiple classes share, meaning students who may need to take a textbook home cannot do so. Another consequence of not having enough textbooks for each student to have his or her own is that teachers expend additional time and money, sometimes their own money, obtaining other resources to supplement their lessons.” Op. at 704-05.

**IV. The school funding system is causing failure.**

**A. As a result of inadequate levels of funding, student outcomes in Pennsylvania are unacceptable across every measure.**

- “Whether the system of public education is ‘thorough and efficient’ and ‘serv[ing] the needs of the Commonwealth,’ PA. CONST. art. III, § 14, necessarily requires an examination, not just of the inputs, but also the outcomes. Otherwise, there would be no way to gauge the adequacy of the system, and whether it is working to provide the opportunity to succeed to all students.” Op. at 707.
- “There are outcomes that assist the Court in determining whether every student is receiving a meaningful opportunity to succeed academically, socially, and civically, which require that all students have access to a comprehensive, effective, and contemporary system of public education. These include the statewide assessments, the PSSAs and Keystone Exams; PVAAS, which measures growth; national measures, such as NAEP; high school graduation rates; and postsecondary attainment rates, among others.” Op. at 709.
- “A review of the results of the PSSAs and Keystone Exams shows that, across the state, students are not reaching ‘proficiency,’ defined as ‘satisfactory academic performance,’ which ‘demonstrates an adequate command of and ability to apply the knowledge, skills, and practices represented in the Pennsylvania standards.’ From 2015-19, nearly 325,000 students of the approximate 870,000 students taking the PSSAs and Keystone Exams each year were not proficient or advanced in ELA/literature. Almost half a million students did not meet proficiency or higher on the math/algebra PSSAs and Keystone Exams for each of the same five years.” Op. at 712.
- “Obviously, when considering whether the system of public education is preparing students to be college and career ready, it is necessary to examine postsecondary enrollment and attainment rates. . . . Increased attainment, according to Dr. Belfield, results in human capital and ‘the more human capital a worker has, the more productive that worker can be,’ thereby increasing economic growth. There are also ‘spill-over productivity gains’ and ‘social health gains,’ among other benefits. Legislative Respondents’ expert, Mr. Willis, acknowledged research that would support these findings. The State Board has also recognized the importance of postsecondary attainment, setting a goal that 60% of Pennsylvanians aged 25-65 attain a postsecondary degree or industry credential by 2025. In 2021, the rate was approximately 50%.” Op. at 726.

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- “[T]here are other measures that are indicative of whether the system is thorough and efficient. For instance, on the SAT exams, none of Petitioner Districts has an average score of 1,000.” Op. at 728.
- “Petitioners presented extensive credited evidence demonstrating wide achievement gaps on the state assessments between students who attend schools in a low-wealth district and their peers who attend schools in a more affluent district.” Op. at 774.
- “The results in Petitioner Districts and other low-wealth districts students are scoring proficient at even lower rates, illustrating significant achievement gaps between students who attend those districts and students who attend a more affluent district, as well as achievement gaps between other student subgroups. As Dr. Kelly credibly testified, students who attend one of the districts in the poorest quintile test significantly lower on state assessments than those who attend richer districts that can afford more educational resources. The gap between students in the lowest wealth districts and highest wealth districts scoring proficient or advanced is 24.5 percentage points in science and biology (56.5% versus 81.0%), 28 percentage points in ELA/literature (49.4% versus 77.4%), and 30.8 percentage points on math and algebra (31.2% versus 62.0%). There are also large gaps between the second poorest quintile and the wealthiest district. Dr. Johnson similarly opined that there is a gap between the most affluent and least affluent districts, with students in the most affluent performing two to three grade levels above those in the least affluent.” Op. at 713, *see also* Op. at 570, FOF ¶ 2217; *id.* 489, FOF ¶ 2048; *id.* 571, FOF ¶ 2218.

#### **B. As a result of underfunding, economically disadvantaged, students of color, and other historically marginalized children are being left behind.**

- “Dr. Kelly credibly testified regarding the extent to which Black and Hispanic children are impacted by underfunding. . . . He found that across each measure of inadequacy or inequity, Black and Hispanic students were disproportionately impacted.” Op. at 435, FOF ¶¶ 1912-13.
- “No party argues that such disparities are acceptable in a modern society. For example, Speaker has declared that education is ‘the civil rights issue of our day.’ And the Department agrees that there is an urgent need to address the conditions of learning that Black and Hispanic children experience.” Op. at 414, FOF ¶ 1858.
- “Former Deputy Secretary Stem testified that NAEP achievement ‘gaps hold fairly steady over time with Pennsylvania having among the largest gaps in the nation.’” Op. at 577, FOF ¶ 2228.

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- “In recognition of the achievement gaps, in the state’s ESSA Plan, the Department made the decision to set separate, lower goals for traditionally underserved groups rather than setting uniform goals for all students. Therefore, even were Pennsylvania to achieve all of its goals by 2030 — which the Department admits will not happen without additional funding — significant achievement gaps will remain throughout the system. . . . Former Deputy Secretary Stem explained the ultimate decision to have different goals was not because of any belief about the innate ability of certain students, but rather a recognition of the depth of existing inequities within Pennsylvania’s school funding system itself. Former Deputy Secretary Stem testified: ‘The very starting point is a reflection of the historic inequities in our system that have created the conditions where this is where — this is where we’re starting.’” Op. at 578, FOF ¶¶ 2229-30.
- “These achievement gaps widen when student subgroups – Blacks, Hispanics, ELL students, economically-disadvantaged, and other historically underperforming students – are examined. Similar gaps were shown with regard to high school graduation rates, postsecondary enrollment and attainment, and other measures, such as rigorous courses of study.” Op. at 774; *see also* Op. at 714-715.
- “The Department also acknowledges that funding inequities are one of the “fundamental root causes” of these gaps and that increased funding is necessary to address them. These gaps demonstrate that the way the system is funded is failing its most vulnerable, traditionally underserved children: students of color, economically-disadvantaged students, and historically underperforming students, including ELL students and special education students. And as the Department recognizes, and Dr. Kelly demonstrated in his analysis, a common denominator of these disparities in student outcomes is funding inequities.” Op. at 578-79, FOF ¶ 2231.
- “Department data shows that Black, Hispanic, and economically-disadvantaged students enroll in and complete postsecondary degree within six years of high school graduation at almost half the rate of all students and their White counterparts. . . . As a result, racial and ethnic gaps between individuals who hold degrees are similarly significant, in what former Secretary Ortega termed as ‘huge difference[s].’” Op. at 600-01, FOF ¶¶ 2275-76.
- “NSC data acquired and used by the Department shows that, of 2013 high school graduates, 21.4% of economically-disadvantaged students obtained a degree within 6

years. For non-economically-disadvantaged students, that number was 52.3%.” Op. at 601, FOF ¶ 2276

- “Overall, there are consistent gaps when the inputs and outcomes described above are evaluated: gaps of achievement for economically-disadvantaged students, Black and Hispanic students and other historically underperforming students. The consistency of these gaps over the variety of inputs and outputs leads to the inescapable conclusion that these students are not receiving a meaningful opportunity to succeed academically, socially, and civically, which requires that all students have access to a comprehensive, effective, and contemporary system of public education.” Op. at 729; *see also* Op. at 714; *id.* 490, FOF ¶¶ 2049-50; *id.* 579, FOF ¶¶ 2229-2230; *id.* 579-580, FOF ¶¶ 2234-35.

**V. The Commonwealth is responsible for solving this failure.**

**A. The Legislative and Executive Branches must solve this problem.**

- “Having faced the ‘formidable challenge’ given to the Court by the Supreme Court head on, this Court now tasks Respondents with the challenge of delivering a system of public education that the Pennsylvania Constitution requires – one that provides for every student to receive a meaningful opportunity to succeed academically, socially, and civically, which requires that all students have access to a comprehensive, effective, and contemporary system of public education.” Post-trial Motion Opinion at 13 (June 21, 2023).
- The Court acknowledges the dueling public interests that Legislative Respondents face. However, . . . the Supreme Court has already stated that the General Assembly’s constitutional obligations under the Education Clause should not jostle on equal terms with non-constitutional considerations that the people deemed unworthy of embodying in their Constitution.” Op. at 770, n.124.

**B. Local control is an illusion when you have insufficient funding.**

- “In *William Penn II*, the Supreme Court stated, recitations of the need for local control cannot relieve the General Assembly of its exclusive obligation under the Education Clause.” Op. at 770.
- “What the Court’s findings illustrate is local control by the districts is largely illusory. Low-wealth districts cannot generate enough revenue to meet the needs of their students, and the pot of money on which Legislative Respondents allege they sit is not truly disposable income.” Op. at 681

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- “While the Commonwealth does not necessarily dictate how local districts meet the academic standards and certain powers are reserved for local school boards, this reservation of power is meaningless if the local districts do not have financial resources to fund such initiatives. The Court does not question the importance of local control; rather, it questions whether there can be meaningful local control when low-wealth districts are constantly faced with making tough decisions regarding which programs or resources to cut or which students, all in need of additional resources, receive access to the precious few resources these districts can afford to provide.” Op. at 772.
- *See also* Op. at 247, FOF ¶ 1049 (“Shenandoah Valley cannot tax its way to sufficient funding.”); *id.* 121, FOF ¶ 479 (“Greater Johnstown’s efforts to raise funds had the opposite effect, and from 2017-18 to 2018-19 and from 2018-19 to 2019-20, local tax revenue decreased.”); *id.* 348, FOF ¶ 1505 (“SDP’s school board has no taxing authority.”); *id.* 424, FOF ¶ 1889 (“Dr. Kelly credibly explained that for low-wealth districts in Pennsylvania, local fiscal control is largely an illusion because these districts generally have substantially higher tax rates than high-wealth districts”); *id.* 510, FOF ¶ 2096 (“Mr. Willis conceded that, overall, Petitioner Districts have below average household incomes, are in high poverty communities, serve a higher-needs population than the state on average, and make higher than typical tax effort.”).
- “Legislative Respondents have not identified how local control would be undermined by a more equitable funding system,” and that “[p]roviding equitable resources would not have to detract from local control, particularly for the districts which can afford to generate the resources they need; local control could be promoted by providing low-wealth districts with real choice, instead of choices dictated by their lack of needed funds.” Op. at 771-72.

## **VI. The opinion busted Pennsylvania school funding myths.**

### **A. The pandemic shed greater light on historic disparities in school funding, but one-time federal aid did not fix them.**

- “The COVID pandemic highlighted these deficiencies, which the Department recognizes. When Petitioner Districts, which were already experiencing financial difficulties, were forced to close and rely upon online learning for an extended period of time, they were unable to transition quickly and effectively due to the lack of technology that was sufficient to meet their students’ varying needs. This created both short-term and long-term problems, which illustrate the compounding nature of underfunding. For example, students in the poorer districts were those most likely to be without access to a laptop and the means to utilize it at home, including reliable

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Wi-Fi. Other students were thrust into online learning when neither they nor their family had familiarity with the technology they were now forced to use. The high-need students who disproportionately attend these low-wealth districts, such as ELL students, students with disabilities, and economically-disadvantaged students, lost access to important support and services, as well as valuable learning and socialization opportunities, thereby exacerbating the achievement gaps that already were evident. Aside from the immediate effect on the students who were deprived of much needed support and services, the students and districts they attend face a difficult road to recovery. As numerous superintendents testified, but for the ESSER funds, many of the programs that were saved or added, the staff that was retained or welcomed, the facilities that were repaired and developed, and technology that was provided to students or improved upon, would still be lacking, and will likely be lost when those funds run out if changes to the funding system currently in place are not made. This will create the ironic situation that just as the full effects of the loss of learning and socialization suffered by students in low-wealth districts continue to manifest the funding to hire the staff or put into place necessary programs to combat these problems will not be available.” Op. at 706-07, *see also e.g.*, Op. at 114-115, FOF ¶¶ 454, 455; *id.* 147, FOF ¶¶ 596-597; *id.* 148, FOF ¶ 599; *id.* 187-188, FOF ¶¶ 780-81; *id.* 214, FOF ¶¶ 906-07; *id.* 215-216, FOF ¶¶ 909-912; *id.* 265, FOF ¶ 1136; *id.* 295, FOF ¶1260; *id.* 340, FOF ¶¶1472-73; *id.* 364, FOF ¶¶ 1597-98, *id.* 265, FOF ¶ 1600; *id.* 275, FOF ¶ 1659; *id.* 413, FOF ¶ 1855.

- “[I]n a letter to school districts, President Pro Tempore specifically advised that “school districts should not use one-time federal funding to increase their ongoing, baseline spending with the expectation that the state’s fiscal condition will be in a position to replace the funding in future years.” Op. at 80, FOF ¶ 310.
- “As former Deputy Secretary Stem explained, former Secretary Ortega was communicating to school district leaders ‘a reminder that these are one-time funds[;] these are non-recurring funds[;] and that districts should be . . . thoughtful about how they’re leveraging these funds for short and long-term needs, knowing that in 2024, that these funds would no longer be available.’ Former Deputy Secretary Stem also explained that the intent was to warn districts that the money was not appropriate for recurring costs, such as ‘long range staffing needs,’ because ‘[t]here’s a cliff that school leaders should be anticipating.’ As he further explained, former Secretary Ortega was ‘advocating for a strategic approach to meeting students’ needs through these funds, and a thoughtful approach that considers all funding sources in well[-]conceived ways.’” Op. at 78, FOF ¶ 308.
- “Perhaps cognizant that history could repeat itself, the Department and President Pro Tempore admonished districts to avoid using ESSER funds for recurring costs.

Notwithstanding, some districts still felt they had no choice if they were to meet the immediate needs of their students, especially in the wake of the COVID pandemic.” Op. at 697, *see also* Op. at 78-80, FOF ¶¶ 308-310; Op. at 244, FOF ¶ 1035.

**B. The hold harmless debate is a symptom of an inadequately funded system.**

- “[T]here is nothing in Petitioners’ prayer for relief that would remove funding from any other entity. There is no threat to the due process rights of any non-party entity. As noted above, the relief requested by Petitioners is prospective only and intended to benefit all students in Pennsylvania.” Op. at 610.
- “If the hold harmless principle were no longer applied and all the money were allocated pursuant to the Fair Funding Formula, Dr. Kelly opined that about a billion dollars of funding would transfer from district to district. As Dr. Kelly testified, however, ending hold harmless “harms” districts in this manner only because Pennsylvania inadequately funds its schools in the first instance, forcing them to compete with each other for a finite and insufficient amount of funding: “The issue is that the pie is too small for adequacy. If the funding was adequate, it wouldn’t be this zero sum ga[me].” Op. at 434, FOF ¶ 1909.
- “As Mr. Splain described, hold harmless is ‘sort of like rearranging . . . the deck chairs on the Titanic[, and w]e’re all going in the wrong direction’ because while “[w]e can change things around,’ ‘if we’re not changing the direction with the funding that’s available, we’re headed in the wrong path when it comes to meeting the needs of our students and of our schools to support those students.’ The concerns that underlie the perceived need for the hold harmless provision provide further support for the existence of the funding shortfalls.” Op. at 679, *see also* Op. at 383, FOF ¶ 1700.

**C. Charter schools fare no better in the system, and result in “stranded costs” that must be taken into account.**

- “The evidence presented did not show students who attend charter schools fare any better, especially those attending cyber charter schools.” Op. at 715.
- “Mr. Monson also explained that there are “stranded costs” that must be taken into account when a student leaves the district for a charter school. Mr. Monson gave an example of a 4th grade classroom in which 2 of 28 students go to a charter school. As he pointed out, “[t]here are still 26 students behind in that classroom, which means

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they still have a teacher, there’s still a counselor . . . assistant principal, . . . building support . . . those expenses don’t go away[.]’ According to Mr. Monson, SDP loses approximately \$4,000 in stranded costs per student.” Op. at 369, FOF ¶ 1624.

- “Dr. Kelly credibly explained there is not a one-for-one tradeoff in costs when a student enrolls in a charter school because not all the district’s expenses associated with educating a student are erased when a student attends a charter school.” Op. at 434, FOF ¶ 1910.

#### **D. A “silent recession:” State funding increases have failed to keep up with inflation and increases in mandated costs.**

- “Dr. Kelly testified that pension expenses, one of the mandated costs districts face, dramatically increased from 2008-09 to 2018-19, from 2% to 15% of districts’ total expenses, a sevenfold increase.” Op. at 678, *see also* FOF ¶ 1900.
- “Legislative Respondents’ expert, Mr. Willis, estimated that unreimbursed pension expenses grew to approximately \$1.4 billion from 2010 to 2019, when adjusted for inflation.” Op. at 678, *see also* FOF ¶ 2155.
- “Mr. Willis agreed that these pressures can threaten to destabilize school district budgets and force reductions in services to students. In his words, these pressures can therefore ‘create a silent recession’ for school districts, ‘even in periods of overall state increases in funding.’ Mr. Willis agreed, as did President Pro Tempore’s witness Mr. Donley, that to look at the impact of funding increases to school districts, one must also study school districts’ rising mandated costs.” Op. at 539, FOF ¶ 2155.
- “The state funding increases also do not take into account the increases in mandated costs. For Petitioner Districts and SDP, growth in mandated costs have nearly outstripped every dollar in increases from the Fair Funding Formula. This is true when figures are not adjusted for inflation, as the table below illustrates for Wilkes-Barre. . . . And this is true when revenues and expenditures are adjusted for inflation[.]” Op. at 604, FOF ¶¶ 2284-2285.

#### **E. Fund balances are imperative for sound fiscal management and not the cause of inadequate resources.**

- “Several of the districts’ financial managers testified that while there are fund balances, many of these are required by GASB rules and are not actually expendable

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dollars. Thus, the amounts and existence of fund balances can be somewhat misleading. Furthermore, the fund balances are extremely important to enable the districts to continue operations when state and other funding is delayed, or there are unexpected expenses, which even Mr. Donley acknowledged, adding the General Assembly also has fund balances. For instance, rating agencies view districts with smaller fund balances as a credit risk. ... Thus, based on the credited evidence presented, the Court does not find district fund balances contribute to funding inadequacies.” Op. at 680-81; *see also* Op. at 99, FOF ¶ 387, *id.* 100, FOF ¶¶ 391-393.

- “[S]chool districts have had to use fund balances to stay afloat when the Commonwealth indefinitely delays enacting a budget, as happened for nearly a year in the 2015-16 school year.” Op. at 101, FOF ¶ 396.
- “Mr. Donley admitted that the Commonwealth’s failure to pass a budget forced school districts to borrow \$1 billion in funds to stay afloat, taking on tens of millions of dollars in interest payments. (Tr. at 11751-52.)” Op. at 101, FOF ¶ 397.
- “In other instances, districts need to use fund balances to make capital improvements, planned or unplanned, or to handle other unforeseen expenses.” Op. at 102, FOF ¶ 398; *see also* Op. at 100-102, FOF ¶¶ 393-398.
- *See also* Op. at 343, FOF ¶ 1483 (William Penn’s fund balance dwindled to about two days’ worth of operations at one point despite routine tax increases and budget cuts); *id.* 267, FOF ¶ 1148 (Shenandoah Valley’s fund balance will be used to replace a decades-old boiler, purchase vans to transport special education students, and replace technology); *id.* 192, FOF ¶ 806 (Absent ESSER funding, Panther Valley’s fund balance would have been negative).

#### **F. National comparisons and national figures on PA spending are not accurate.**

- “Dr. Kelly also addressed the Census data upon which Legislative Respondents sought to rely on for their per-pupil expenditures and revenue for Pennsylvania students. According to Dr. Kelly, the Census information is not reliable because it reports far higher per-student levels of expenditures and revenues for Pennsylvania than Pennsylvania itself reports. For example, Dr. Kelly testified the Census reports that Pennsylvania’s per-pupil revenue is \$20,434 for the 2017-18 fiscal year. Yet, Dr. Kelly explained the Department reports per-ADM revenue for the same time period is

## Basic Education Funding Commission

### Appendix of Selected Passages from Commonwealth Court’s Opinion

\$17,622.37, a difference of roughly \$3,000 per student. . . . This Court finds Dr. Kelly’s explanation as to why these differences exist to be credible. First, Dr. Kelly testified the Census double-counts revenues that flow to charter schools, counting them once as they go to school districts and then again as they are passed through to charter schools, which results in the Census over-reporting Pennsylvania’s total revenues. Second, Dr. Kelly explained the Census undercounts the total number of students for whom those funds are paid, by leaving charter students out of its denominator.” Op. at 442, FOF ¶¶ 1940-41.

- “Making the Grade further noted that correcting for the error made particularly significant differences in evaluating the funding equity of states like Pennsylvania because “[t]hese states have reasonably large charter populations that are concentrated in high-poverty districts. The inflated per-pupil revenues in mostly high-poverty districts made these states look more progressive than they actually are.” Op. 519, FOF ¶ 2119.



## **Basic Education Funding Commission**

Testimony of Maura McInerney, Esq. Education Law Center  
September 13, 2023

*The good Education of Youth has been esteemed by Wise men in all Ages, as the surest foundation of the happiness both of private Families and of Common-wealths. Almost all Governments have therefore made it a principal Object of their Attention, to establish and endow with proper Revenues, such Seminaries of Learning, as might supply the succeeding Age with Men qualified to serve the publick with Honour to themselves, and to their Country.*<sup>1</sup> Benjamin Franklin, 1749

Good morning and thank you for the opportunity to speak to the Commission today. My name is Maura McInerney and I am the Legal Director at the **Education Law Center-PA (ELC)**, a nonprofit, legal advocacy organization dedicated to ensuring that all children in Pennsylvania have access to a quality public education.<sup>2</sup> I am also one of the attorneys who represented Petitioners in the school funding lawsuit, *William Penn Sch. Dist. v. Pennsylvania Dep't of Educ.*, 587 M.D. 2014 (Feb. 7, 2023), *Slip. Opinion* ("Op. "). The case was filed by six school districts (William Penn, Greater Johnstown, Lancaster, Panther Valley, Shenandoah

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<sup>1</sup> Benjamin Franklin, *Proposal Relating to the Education of Youth in Pennsylvania (1749)*, available at <http://www.archives.upenn.edu/primdocs/1749proposals.html>.

<sup>2</sup> **The Education Law Center-PA (ELC)** is a nonprofit, legal advocacy organization with offices in Philadelphia and Pittsburgh, dedicated to ensuring that all children in Pennsylvania have access to a quality public education. Through legal representation, impact litigation, community engagement, and policy advocacy, ELC advances the rights of underserved children, including children living in poverty, children of color, children in the foster care and juvenile justice systems, children with disabilities, English learners, LGBTQ students, and children experiencing homelessness.

Valley, and Wilkes-Barre Area), the Pennsylvania Association of Rural and Small Schools (PARSS), the NAACP-PA State Conference, and public school parents.

Today I will discuss the Court’s conclusions and the legal standard for a constitutionally compliant system, describe what the Court has determined are the elements of a constitutionally compliant public education system that meets that standard, and offer five priorities for the commission’s work.

The Court’s decision in the *William Penn* case reaffirms the two essential roles of public education: (1) to provide all students with tools they need to succeed academically, socially, and civically in today’s world and (2) to create a well-educated society that ensures our functioning democracy and a thriving economy at both the state and local level, thus “serving the needs of the Commonwealth.”<sup>3</sup> Today and in the months ahead, this Commission is presented with a historic opportunity: to devise a plan to correct entrenched inequities in Pennsylvania’s public school funding system that have harmed generations of schoolchildren across the Commonwealth. Your critical work will change the life trajectories of hundreds of thousands of individuals and greatly benefit and strengthen our Commonwealth for future generations.

In holding that our current funding system violates both the Education Clause<sup>4</sup> and the Equal Protection<sup>5</sup> provisions of our state Constitution, the Court relied on the deep history and

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<sup>3</sup> See e.g., *William Penn*, Op. at 702-702 (“Education must evolve if students are to be provided a meaningful opportunity to succeed academically, socially, and civically. That is the only way students will meet the ever-changing needs of the modern-day workforce and become productive members of society, as our forebearers had envisioned.” Op. at 635 (Moreover, the importance of educating all youth to ensure the future of the Commonwealth was a steadfast belief that survived centuries, ultimately culminating in it being explicitly memorialized in the 1967 Constitution with the addition of the phrase “to serve the needs of the Commonwealth.” (citations omitted). See also Op. at 17-18.

<sup>4</sup> “The General Assembly shall provide for the maintenance and support of a thorough and efficient system of public education to serve the needs of the Commonwealth.” PA. CONST. art. III, § 14.

<sup>5</sup> PA. CONST. art III, § 32.

clear language of the Education Clause. Like the Delegates to the Constitutional Convention of 1874, the Court rejected a two-tiered school funding system of the haves and the have-nots.<sup>6</sup> Instead, the Court expressly held that our school funding system must ensure that every student receives “a meaningful opportunity to succeed academically, socially, and civically, which requires that all students have access to a comprehensive, effective, and contemporary system of public education.” *William Penn*, Op. at 634.

The Court not only defined the quality of education mandated by our Constitution but declared public education in our state to be a fundamental right, one guaranteed to every child regardless of wealth, race, or zip code. As a result of underfunding, the Court found, students in low-wealth districts are discriminated against as they lack essential resources needed to prepare them to succeed, as evidenced by achievement gaps between high-wealth and low-wealth districts reflected in multiple outcome measures including state test scores, graduation rates, postsecondary attainment, and college graduation rates. These gross disparities in both resources and outcomes cannot be justified by any compelling state interest.<sup>7</sup> In making these determinations, the Court made clear that money matters in public education and credited research studies and the testimony of numerous witnesses establishing that “sustained increases in funding help eliminate achievement gaps between economically disadvantaged students and their non-economically disadvantaged peers.” Op. at 717-18.

Importantly, the Court’s decision focused exclusively on Pennsylvania’s public education system and did not reference private schools or voucher programs. Our Education Clause

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<sup>6</sup> Op. at 634; 11-12; 17-18.

<sup>7</sup> Op. at 769-770. As the Court explained, Pennsylvania’s current school funding system has “disproportionately, negatively impacted students who attend schools in low-wealth school districts. This disparity is the result of a funding system that is heavily dependent on local tax revenue, which benefits students in high-wealth districts.” Op. at 769.

requires the General Assembly to provide for the maintenance and support of a thorough and efficient system of “*public* education.”<sup>8</sup> Thus, the state’s duty and priority is to ensure that public schools have sufficient funds to provide all students with a comprehensive, effective, and contemporary public education. Suggestions that this standard could be met by funding private schools ignore the plain language of Pennsylvania’s Constitution and the Court’s ruling.<sup>9</sup>

The Court’s decision provides a roadmap for this Commission to develop a constitutionally compliant school funding system and the decision must inform the work of this body. First, the Court identified “essential elements of a thorough and efficient system of public education” to serve all students. Second, the Court enumerated specific drivers of inequities that must be addressed and reformed.

The Court highlighted the following elements as necessary to provide a constitutionally compliant school funding system: adequate funding (including sufficient funding for basic education, special education, and Pre-K); courses, curricula, and other programs that prepare students to be college and career ready; sufficient, qualified, and effective staff; safe and adequate facilities; and modern, quality instrumentalities of learning, including technology.<sup>10</sup> The Court also identified specific resources and strategies recognized by the state, experts, and Petitioner Districts as effective to support students in poverty to become college and career ready and close achievement existing gaps. These strategies include: ensuring access to high-quality pre-K for children in low-wealth districts; supporting sufficient numbers of effective teachers to meet increased student needs; providing early intensive resources (K to 3rd grade) focused on literacy, mathematics, and numeracy, including reading and math specialists; sufficient school

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<sup>8</sup> Pa. Const. Art III, § 14 Op. 776-77.

<sup>9</sup> *William Penn*, Op. at 646, 709, and 773.

<sup>10</sup> Op. at 705.

counselors; school libraries and school librarians; and programs to increase school attendance and after-school programs.<sup>11</sup>

The Court defined the path forward to bring Pennsylvania into constitutional compliance and the Commission's report should address the following findings and directives from the Court:

- 1. *Determine Adequacy Targets For Each District Based on Student Need and Current Education Costs.*** The Court directed the General Assembly to determine the amount of money school districts require to educate the students they serve, recognizing that students living in poverty need more money, not less.<sup>12</sup> This requires the Commission to identify adequacy targets aligned with the cost of effectively delivering education so that all students have the opportunity to meet state academic goals. Adequacy targets must take into account basic education and special education costs, the current cost of teachers, support staff, administration, curriculum, etc. The Court's findings also instruct the Commission to calculate adequacy targets by taking into account increases in mandated costs, (such as pensions) increased special education costs, increases in inflation, stranded charter school costs, and the needs of districts based on student and district characteristics.<sup>13</sup>

Dr. Kelly's report is responsive to each of these issues. Utilizing a model schools methodology to determine the cost of meeting current state standards and relying on the state's current weights in both the Fair Funding Formula and Special Education Funding Formula, Dr. Kelly's adequacy study includes up-to-date cost information for basic and special education and increases in mandated costs, and addresses stranded charter school costs. It also accurately accounts for enrolled students' low-income status.

The Basic Education Funding Commission's report should determine the total cost to meet the constitutional standard, establishing a meaningful adequacy target for each school district and a method to distribute those funds in an equitable way in a reasonable timeframe. Adequately and equitably funding our public schools defined by decades of underfunding will require a significant investment: Dr. Kelly estimates that this will require a 20% increase in current expenditures statewide.

- 2. *Local and state share:*** The Court directed the General Assembly to address the division of state and local funding to ensure it is equitable and does not overburden low-wealth

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<sup>11</sup> Op. at 64-65.

<sup>12</sup> Op. at 769.

<sup>13</sup> Op. at 604, 678, 539, 421; Op. at 434 and 369.

districts. Petitioner districts and others who have a limited ability to raise revenue through local taxes are unable to meet the greater needs of their students without this change.<sup>14</sup> Pennsylvania remains an outlier in this regard and has long ranked near the bottom nationally: State revenue funds are only 37% of the PA's education budget whereas the national average is 45%.<sup>15</sup>

3. **Early Education:** The Court emphasized that quality early childhood education and pre-K are important investments particularly for children living in poverty; however, the majority of young children who are economically disadvantaged fail to receive these critical resources.<sup>16</sup>
4. **Facilities:** The Court repeatedly recognized the need for safe and adequate facilities as a “component of a thorough and efficient system of public education” which is generally not in dispute and must be addressed so students can learn.<sup>17</sup> Other states have addressed this issue through a variety of approaches including providing direct appropriations for construction costs and incorporating an equity component within their appropriation policy that prioritizes projects for school districts with low levels of property wealth.<sup>18</sup>
5. **Timetable:** The Commission’s report must recommend a reasonable timeline to fully fund a constitutionally compliant school funding system that reflects the urgency of the problem. Next year’s budget should begin to implement this timeline to ensure that all districts reach adequate funding within a reasonable period.

As the Commission undertakes its work, it is imperative to recognize the pressing need to remedy our unconstitutional school funding system for those who have been most impacted by inequitable school resources. The evidence in our case established that Black and Hispanic children in particular are disproportionately educated in Pennsylvania’s most underfunded schools and as a result, across each measure of inadequacy or inequity, Black and Hispanic students are disproportionately impacted by our inequitable funding system.<sup>19</sup> The Court held that the consistency of these gaps over a variety of inputs and outputs led to the “inescapable

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<sup>14</sup> Op. at 681 and 705.

<sup>15</sup> United State Census Bureau, 2021 Public Elementary-Secondary Education Finance Data, Summary Table 5.

<sup>16</sup> Op. at 688, 689 and 447-448. *See also* 103-104 (noting that Pennsylvania’s program serves only 40% of eligible children.)

<sup>17</sup> Op. at 705, 676, 698,774.

<sup>18</sup> *See* 50-State Comparison: K-12 School Construction Funding, Education Commission of the States, available at <https://www.ecs.org/50-state-comparison-k-12-school-construction-funding-2023/>.

<sup>19</sup> Op. at 435.

conclusion” that these students are not receiving a meaningful opportunity to succeed. Op. at 729; *see also* Op. at 714.

In 2024, we will celebrate the 70<sup>th</sup> anniversary of the U.S. Supreme Court’s landmark ruling in *Brown v. Board of Education*, the court’s unanimous decision that outlawed racial segregation in our public schools. The words of Chief Justice Earl Warren uttered in 1954 should guide the urgency of our work in Pennsylvania:

*In these days, it is doubtful that any child may reasonably be expected to succeed in life if he is denied the opportunity of an education. Such an opportunity, where the state has undertaken to provide it, is a right which must be made available to all on equal terms.*

*Brown v. Bd. of Ed. of Topeka, Shawnee Cnty., Kan.*, 347 U.S. 483, 493 (1954), *supplemented sub nom. Brown v. Bd. of Educ. of Topeka, Kan.*, 349 U.S. 294 (1955).

There is a clear path forward to achieve equity and vastly improve academic and life outcomes for all our students. The time to blaze that trail is now. Thank you.



**Testimony of David McAndrew  
Superintendent of Panther Valley School District  
September 13, 2023**

Chair Phillips-Hill, Chair Sturla, and members of the Basic Education Funding Commission:

Thank you for inviting me to testify today. Since 2020, I have been superintendent of Panther Valley School District. Our district is one of six that filed and won the school funding lawsuit.

We joined the case and won the case because our public school funding system makes it impossible for poor, rural communities like mine to provide the resources all our students need to succeed civically, academically and socially.

Each new school year, I am reminded just how hard our phenomenal teachers and staff are working to serve our students. But I am also reminded of all the ways the deck is stacked against these kids.

I've lived in the Panther Valley School District all my life. Our district serves four small towns in Carbon and Schuylkill Counties—Summit Hill, Lansford, Nesquehoning, and Coaldale. Each is a former mining community in the anthracite coal region, and two were founded as company towns.

Today, all have high levels of poverty. Within the last few years, two of our only remaining large businesses and employers have closed: Kovatch, a manufacturer of fire apparatuses and trucks, and Silberline Manufacturing. Many residents must travel long distances for jobs, and the biggest employers in our district are the nonprofit St. Luke's Hospital system and the school district itself.

Our students are incredibly resilient, they want to learn, and with support, they can achieve as much as kids in any other community. They also come to school with deep challenges, and too often, because of a school funding system that relies on local resources we cannot provide, we cannot give them all the support they need to overcome these challenges.

We currently serve about 2,000 students. Almost 23 percent of them require special education, and state funding has not even come close to keeping up with their need for additional support. A large majority of kids in our district are economically disadvantaged, and many have experienced trauma and need mental health support. Our ability to provide that support, however, is limited: our classroom teachers often have to play the role of school counselor or school social worker. Panther Valley runs a food pantry, funded by Second Harvest, and last month, 700 people used that service.

On top of that, our small district is growing fast—we added about 300 students in the last three years, mostly in elementary school.

We have been unable to hire the teachers and paraprofessionals to keep up. Our elementary school has class sizes of up to 28 students, often with no teacher's aides, even in kindergarten, where most students arrive with no pre-K experience. Class sizes in high school are up to 33 students. At any given time, 10 to 12 of our teachers are teaching classes that are outside of their certification. When we *are* able to afford to fill teaching positions, we must compete against neighboring districts who can offer significantly higher salaries—sometimes \$15,000 more a year.

Just retaining the teachers we have requires steep tradeoffs. To avoid deep staff cuts, we spent most of our one-time federal pandemic relief on salaries, foregoing investments in technology and facilities that other districts were able to make. But without this aid, we would have eliminated art, music, all paraprofessional positions, and many athletic programs.

Just like we need more teachers, we also desperately need more classrooms themselves. Our student body has exploded in a K-3 building that is 60 years old and has no additional space. It is not air conditioned, and it has a leaky roof, an outdated HVAC system, and a laundry list of repairs that has grown for decades.

Last week, temperatures were above 90 degrees, and I had a choice to make. I could either dismiss school early, causing our students to miss half a day of education, or keep school open through the afternoon in uncomfortable conditions for young children. I chose to keep school open for the full day, but either choice meant giving students less than they deserve. If my district had adequate resources, I would not have had to make that choice at all.

We are currently doing what we can to put aside money for a new building, because we have no other option. But that saving has consequences. Preparing to pay for a building we know our students need means that we must continue to tread water, making do with insufficient staff while our student population continues to grow.

Before leading Panther Valley, I spent most of my career as a kindergarten teacher and principal in Jim Thorpe, a significantly wealthier neighboring district. You can see the difference in wealth between our two communities as soon as you step into the classroom: small class sizes, up-to-date technology, assistant principals in every building, and more. I saw the difference that this support makes for their students and I know it would make a difference for mine.

Our local taxpayers try very hard to support our schools. But because our community is not wealthy, it is not enough—not even close. There is nowhere else for us to turn.

All of this is why I am here. To help you understand what the Court understood: that our kids deserve much more. So I ask this Commission to design a new, fair system, one with sufficient state funding, based on our students' potential, not on our community's wealth.

Sufficient funding would mean that all of our kids could learn in safe, modern buildings. It would mean fewer kindergarteners waiting for help from a teacher scrambling to manage 25 other kids by him or herself. It would mean high schoolers with access to everything they need to prepare to enter the 21<sup>st</sup> century workforce. These aren't wants. These are needs.

Panther Valley is my home. My parents live in the district, and I sent my children to school here. My neighbors have that underdog spirit—they know they have had to do more with less. They are fighters, and I came to lead this district so I could fight alongside our families and our students. That is why I came to Harrisburg to take the stand in the school funding trial, and why I am here today. What we are asking for, and what the state constitution and the Court has said our students deserve, is simple: a meaningful opportunity, and the essential resources to make that happen in every public school. Thank you.



**Testimony of Brian Costello**  
**Superintendent of Wilkes-Barre Area School District**  
**September 13, 2023**

Chair Phillips-Hill, Chair Sturla, and members of the Basic Education Funding Commission, thank you for the opportunity to testify today.

I have spent my life in the Wilkes-Barre Area School District. I was a student, I was a teacher, I was a principal, I was a curriculum director, and since 2016, I have been superintendent. With five other school districts, Wilkes-Barre Area joined the school funding lawsuit, and won.

I believe that all students can learn, and I am sure that the members of this commission share that belief. However, I am here today because Pennsylvania's unconstitutional school funding system does not allow districts like mine to provide our students with the resources they need to thrive.

Wilkes-Barre and its surroundings make up a proud community. We were one of the earliest centers of mining and industry in the United States. Today, with that industry largely gone, we are one of the poorest school districts in Pennsylvania. More than a quarter of city residents live in poverty, and 81 percent of our more than 7,500 students are economically disadvantaged.

As an educator, it is difficult coming to school every day, knowing that students want to succeed, while also knowing that you are unable to provide the necessary support for all of them to do so. Our students just need the opportunity to show what they can do, but to give them that chance, we need additional funding.

In the years following the great recession, Wilkes-Barre Area faced an operating deficit of around \$8 million a year. Soon after I took the helm as superintendent in 2016, we took draconian measures to bring expenses in line with our revenue. We cut all K-8 art classes, Family Consumer Science, Industrial Arts and laid off every librarian in the district. In all, we furloughed 37 teachers and more than 20 paraprofessionals.

It is absolutely heartbreaking to make choices that you know will negatively affect student learning. But districts like mine, without local wealth to draw from, are forced to choose between unacceptable options every school year. Our district ranks 487<sup>th</sup> out of 499 school districts in spending relative to our student's needs under the Fair Funding Formula.

That means our students need more support than students in most other districts do—intervention specialists, small group learning, guidance counselors, and more—but because state funding is insufficient, and local funding is unavailable, they have less.

Without enough teachers or one-on-one intervention staff, missed opportunities compound as our students move through school. We are able to offer AP Calculus, but by senior year, only a few students have developed the math ability to take this course.

At the start of the 2021 school year, we welcomed students to a new state-of-the-art comprehensive high school. We are proud of this beautiful facility, with many modern features, including specialized science equipment for our STEM Academy program. However, even this achievement for our district was born out of necessity, and brought deep tradeoffs.

Prior to the opening of our new high school, Wilkes-Barre Area had three. Each had been an anchor in its community, but each was in serious disrepair. The foundation of Meyers High School had shifted by about a foot, causing structural damage that needed to be fixed. Structural damage at Coughlin High School forced us to close large portions of the building, sending 9<sup>th</sup> and 10<sup>th</sup> graders to a nearby elementary school and crowding older students into an annex. In the final years of these buildings, we installed protective sheds above the entrances to protect students from their crumbling facades.

Fixing each of these buildings would have cost twice as much as the bond to finance our new high school. That bond costs around \$8.5 million per year in repayments. To fit this additional expense into the budget, we eliminated another 37 teaching positions. With federal pandemic emergency aid, we were able to temporarily bring back 13 of these teachers to decrease elementary class sizes.

But all told, our district has fewer teachers today than it did in 2014. Our STEM Academy helps prepare students for college and in-demand careers—but we only have three teachers to staff it, and we regularly have to turn away qualified students who want to participate.

Our high school is one building that I don't have to worry about. But in many of our other schools, we face major facilities issues. Kistler Elementary, like our old Meyers High School, borders the river, and its walls have cracks with an infrastructure that does not facilitate 21<sup>st</sup> century learners. That elementary school is also overcrowded—several rooms are divided in half with whiteboards and bookcases to accommodate multiple classes, and students who need occupational therapy receive it in a makeshift room that was once a storage closet.

A school funding system that lives up to the promise of our state constitution, and provides for a comprehensive, contemporary and effective public education in every community, would be a game-changer for our students and for Wilkes-Barre Area. I know that sufficient state funding for public education would make an enormous difference, because modest, but appreciated, recent increases in state funding already have.

Since 2021, Wilkes-Barre Area has received Level Up funding, a state supplement to the most underfunded school districts in Pennsylvania. We used this funding to temporarily bring back art classes and to establish a new Learning Academy for some of our 6<sup>th</sup> grade students at G.A.R Middle School, our school with the lowest academic performance. This program, modeled after medical education, allows our teachers to spend additional time every day working collaboratively to design specific learning strategies for individual students under the guidance of experienced master teachers. These master teachers are also able to provide ongoing instructional coaching, remediation, and enrichment.

After one year, we have already seen promising results from this program. Students in the Learning Academy have seen their PSSA reading scores increase. When compared to the previous year, there was a 148 percent increase in students testing at the proficient or advanced level in ELA.

It's not complicated: when you are able to invest in teaching and learning, students can achieve great things. This commission has an urgent task ahead of them: to build a public school funding system that meets the needs of students, a system where funding is no longer determined by a community's property values. While you are making these important decisions, I urge the members of this commission to think about the untapped potential of thousands of students in public schools like mine.

I know Wilkes-Barre Area. All my life, I have seen the incredible things we can achieve when we are given the chance. The court's decision is clear: every child can learn, and it is up to us to make this promise a reality in Pennsylvania public schools. Invest in the future of Pennsylvania, and let our students show you what they can do. Thank you.



Foundation Funding & State/Local Share  
A Presentation for the Pennsylvania Legislature

Michael Griffith  
Senior Researcher and Policy Analyst  
Learning Policy Institute

September 13, 2023

Chairs and Members of the Committee, thank you for the opportunity to appear before you today. My name is Michael Griffith, and I serve as a Senior Researcher and Policy Analyst at the Learning Policy Institute (LPI), an organization dedicated to advancing evidence-based policies in education to ensure equitable learning opportunities for all children. I'm here today to discuss two critical subjects: how states determine the foundation amount within their school funding formulas and the optimal allocation of K-12 education funding between state and local sources.

**Foundation Formulas in Each State:** States employ two primary distribution methods for K-12 funding. The first is through a foundation or base formula, and the second involves a resource allocation system. The latter, while once common, has lost favor due to its inflexibility in today's dynamic education landscape. Thirty-six states currently use foundation formulas, six state use resources allocation formulas, and the remaining six have funding systems that are unique to their states.

Illinois and Pennsylvania both use a modified foundation formula. These systems provide districts with a “hold harmless” amount of funding and distribute all new education funds through a foundation system.

**What is a Foundation Formula:** Foundation formulas serve as the cornerstone of K-12 education funding. These formulas commence by establishing a foundation amount, which theoretically covers the necessary funding to meet state standards for a general education student. This foundation amount is then adjusted through the application of student weights, designed to address the unique needs of student groups such as at-risk students, English language learners, and special education students. Foundation amounts can also be adjusted based on district characteristics (Size, cost-of-living, location, ect.)

States employ various methods to determine their foundation amounts, including research-based approaches, past year expenditures, reliance on educational inputs, or considering available funding. For example, Maryland has established its foundation amounts through commissions and comprehensive studies.

However, each method has its challenges, from clarity and time-consumption to cost considerations. Georgia, for instance, utilizes educational inputs to calculate its foundation amount, allowing policymakers to see precisely what state funding covers, but this method requires meticulous detailing and regular updates.

**State Local Funding Split:** Over the past century, there has been a significant shift towards greater state involvement in education funding. In the 1919-20 school year, states covered 83.2% of education funding, whereas today, that figure stands at 45.1%. In contrast, the percentage of state funding has increased from 16.5% to 47.5%.

Research doesn't prescribe a specific percentage for state funding, but it does underscore the relationship between increased state funding and greater equity in education. In the 2020-21 school year, 45.3% of K-12 public education funding came from state sources nationwide, compared to 37.4% in Pennsylvania.

**Pennsylvania's School Funding System:** To illustrate, let's examine Pennsylvania's school funding system for the 2023-24 school year. Approximately 50.9% of state funding flows through the "Basic Education Funding" program, while 25.3% of these funds are distributed via the "Weighted Student Funding" program, accounting for 12.9% of the state's K-12 education funding and 4.8% of total education funding.

**Conclusion:** In closing, achieving greater equity within a state's school finance system can be attained through specific measures. Increasing the state's share of school funding, especially when channeled through primary funding formulas tailored to student and district needs, is a key step. Moreover, it's essential to ensure that state funding is directed toward districts and students in the most need.

Thank you for your attention, and I am prepared to respond to any questions or provide further information on these crucial matters.

SCHOOL FINANCE PRESENTATION

# Pennsylvania Legislature Foundation Funding & State/Local Share

Michael Griffith, Senior Researcher and Policy Analyst

9/13/2023



LEARNING  
POLICY  
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Research. Action. Impact.

# Presentation Overview

- ▷ Introduction to foundation formulas
- ▷ State/local funding shares
- ▷ Pennsylvania's school funding system



# What is a foundation formula?

**Foundation Amount**

**X**

**Weighted Student Count**

*Adjusted by*

**Other Student & District Factors**

**=**

**Total Foundation Funding**

# States Differ on How They Share Foundation Costs

Total Foundation Funding

÷

A District's Ability to Pay

=

State Foundation Funding to  
the District

# Issues with Comparing Foundation Amounts

- 1. The primary formula is only part of a state's education funding.**
  - On average – 66.2% of state funds come from the primary funding formula and 33.8% come from other state sources.
- 2. Factors beyond the foundation amount can greatly adjust funding.**
  - This includes weights for high-needs students (at-risk, English language learners, special ed.), regional cost adjustments, additional funding based on district/school needs (size, location, other factors), etc.
- 3. States differ on how they share foundation costs.**
  - In some states, the foundation amount is split between the state and the local education authority (school district). In other states, the state covers the full cost.

# How is a foundation amount determined?

- Based on research
- Based on past year expenditures
- Based on educational inputs
- Based on available funding



# Based on Research: Maryland

- ▷ The state convened two commissions that helped determine the foundation amounts and student weights:
  - Thornton Commission (1999-2002)
  - Kirwan Commission (2017-2019)
- ▷ Both commissions relied on school finance studies to help determine the right foundation amount for Maryland based on the state's educational goals.

# Using Research to Determine a Foundation Amount

- ▷ Can be clearer – When the foundation amount is derived from a study, the public and policymakers may better understand how the funding amount was determined.
- ▷ Can be time-consuming – Most studies take multiple years.
- ▷ Can be costly – Studies can cost anywhere from hundreds of thousands to over a million dollars.
- ▷ Studies can be periodically updated – Updates are less costly and time consuming.

# Based on Past Year Expenditures: Nebraska

- ▷ A comparison group is established for each district consisting of the per pupil expenditures of the 10 larger & 10 smaller districts that are closest in size to the district.
- ▷ Exceptions are made for the largest and smallest districts in the state.
- ▷ The amount is increased each year based on a cost-of-living adjustment.

# Past Year Expenditures

- ▷ Relies on past sufficiency - This funding approach assumes that the amount spent in a previous year was adequate and only requires an annual cost-of-living adjustment.
- ▷ May become dated - This funding approach does not consider changes in student needs and educational expectations that occur over time.

# Based on Educational Inputs: Georgia (2022-23)

Category	Amount Per Pupil	Category	Amount Per Pupil
Teacher	\$2,053	Secretary	\$33
Subject Specialist	\$105	Operations	\$7
Counselors	\$43	Facility M&O	\$298
Tech. Specialists	\$114	Substitutes	\$32
Psychologist	\$19	Staff Development	\$18
Soc. Workers	\$19	Media - Personnel	\$49
Asst. Principal	\$97	Media - Materials	\$13

# Foundation Amounts Based on Educational Inputs

- ▷ Can be clearer - Allows policymakers to see what state funding will pay for.
- ▷ Requires details - This amount must include all possible expenses necessary to educate students to state standards.
- ▷ Requires maintenance - Needs to be updated to take into account cost increases and changes in educational expectations.

# PA Weighted Student Funding:

- ▷ The state determines the total funding amount that will flow through the program.
  - \$1.99 billion in 2023-24
- ▷ The total weighted student count is adjusted by the by the “Median Household Income Index” and the “Local Effort Capacity Index.”
- ▷ Each district receives a proportional amount of funding based on their adjusted weighted student count.
  - Approximately \$755

# A State's Primary Funding Formula is Only Part of Its Education Funding

State	Primary Funding Formula as a Percent of <u>State</u> Funding (2020-21)	Primary Funding Formula as a Percent of <u>Total</u> Funding (2020-21)
United States	66.2%	30.0%
Ohio	83.5%	31.2%
Delaware	80.3%	48.4%
New York	64.0%	24.2%
West Virginia	60.8%	31.2%
Pennsylvania	48.1%	18.0%
New Jersey	46.4%	20.4%
Maryland	45.8%	19.7%

# State/Local Funding Splits

- ▷ The trend over the past 100 years has been for the state to provide an increasing percentage of education costs.
- ▷ Research does not provide a specific percentage that the state should provide.
- ▷ Research does show that greater state funding helps to lead to greater equity.

# State/Local Funding Splits

## Funding Sources

- ▷ State funding primarily relies on sales and income taxes.
- ▷ Local funding primarily relies on property taxes
  - Property taxes as a percentage of local funding (2020-21):
    - Pennsylvania – 80.8%
    - United States – 76.2%
- ▷ Increased reliance on local funding can result in higher local property taxes.
  - Local school property taxes per pupil (2020-21):
    - Pennsylvania - \$10,014
    - United States - \$5,150

# Public Education Funding Sources - United States

	Federal	State	Local
1919-20	0.3%	16.5%	83.2%
1929-30	0.4%	16.9%	82.7%
1939-40	1.8%	30.3%	68.0%
1949-50	2.9%	39.8%	57.3%
1959-60	4.4%	39.1%	56.5%
1969-70	8.0%	39.9%	52.1%
1979-80	9.8%	46.8%	43.4%
1989-90	6.1%	47.1%	46.8%
1999-2000	7.3%	49.5%	43.2%
2009-10	12.7%	43.4%	43.9%
2019-20	7.4%	47.5%	45.1%



# State Funding Share (2020-21)

State	Percent of Funding
United States	45.3%
Pennsylvania	37.4%
Ohio	37.4%
New York	37.8%
Maryland	43.0%
New Jersey	43.9%
West Virginia	51.3%
Delaware	60.2%

# Funding Per Pupil – State Sources (2020-21)

States	State Funding Per Pupil
United States	\$7,909
Delaware	\$12,310
New York	\$12,147
New Jersey	\$11,478
Pennsylvania	\$8,574
Maryland	\$8,493
West Virginia	\$7,863
Ohio	\$6,507

# Pennsylvania's School Funding System

All information is for the 2023-24 school year:

- 50.9% of state funding flows through the “Basic Education Funding” (BEF) program – the state’s primary formula.
- 25.3% of BEF funds flow through the “Weighted Student Funding” (WSF) program.
- WSF accounts for:
  - 12.9% of state K-12 education funding
  - 4.8% of total K-12 funding (Estimated)

# Pennsylvania K-12 Education: State Funding Sources

	2022-23	2023-24*
Base Basic Ed. Funding	38.2%	38.0%
BEF - Weighted Student Funding	9.6%	12.9%
<b>Total BEF</b>	<b>47.9%</b>	<b>50.9%</b>
School Employees Retirement	20.0%	19.4%
Special Ed.	9.0%	9.0%
Pupil Transportation	4.1%	3.8%
School Employees Social Security	4.0%	4.0%
21 Other State Programs	15.0%	12.9%

\*Estimated by LPI

# Conclusion: Creating Greater Equity

The following can help lead to greater equity within a state's school finance system:

- Increase the state's share of school funding.
- Have more significant amounts of funding flow through a state's primary funding formula (but only if that formula targets student/district needs).
- Ensure that all state funding targets districts and students that need it the most.

# Questions or Comments?

Mike Griffith

Senior Researcher and Policy Analyst

[mgriffith@learningpolicyinstitute.org](mailto:mgriffith@learningpolicyinstitute.org)

## Testimony of Danielle Farrie

### Basic Education Funding Commission

September 13, 2023

Good morning and thank you to the Commission for the opportunity to speak today. As Research Director at Education Law Center (ELC) in New Jersey for the last fifteen years, I have studied and analyzed school funding formulas in states across the country. My research focuses both on the national landscape of school funding fairness and also on state-specific work to improve and reform school funding systems that are inadequate or inequitable. In addition to authoring numerous research reports, I have also testified about school funding before the Maryland Legislature and the U.S. Commission on Civil Rights and have participated in school finance litigation in New Jersey, New York and Florida. I have been asked today to talk about the components of an adequate and equitable school funding formula and share experiences of reforms in other states.

#### School Finance Reform Works

I would like to start with a brief overview of the evidence that money does matter and the ways in which school finance reforms have improved outcomes for students. I will start with my home state of New Jersey, where the *Abbott v. Burke* school finance litigation led to dramatic funding reforms. Studies of the Abbott-era reforms have shown<sup>1</sup>:

- Additional dollars targeted to low-income districts were largely spent on instruction and support services and had a significant impact on achievement.
- Low-income 8<sup>th</sup> grade students saw significant improvements on the National Assessment of Educational Progress (NAEP) and the Black-white achievement gap narrowed.
- Between 2001 and 2010, the high school graduation rate in the Abbott districts increased at three times the rate of non-Abbotts, a gain of 12 percentage points versus 4.
- Students enrolled in the court-ordered, high-quality Abbott Preschool program for three- and four-year olds sustained achievement gains through 10<sup>th</sup> grade; achievement gains were doubled for those attending two years of preschool versus one; grade retention was 15 percentage points lower; and special education classification was 7 percentage points lower than for similar students who didn't attend Abbott preschool.<sup>2</sup>

California, a state that experienced decades of disinvestment in public education and has the low achievement results to show for it, has also produced convincing evidence that their recent finance reforms of sustained per pupil increases over a relatively short period of time led to tangible and impressive outcomes:

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<sup>1</sup> Education Law Center. 2016. [Governor Christie's Unfair School Funding Plan: Part III](#). Newark, NJ.

<sup>2</sup> National Institute for Early Education Research. 2021. [Fact Sheet – New Jersey Abbott Preschool Program Longitudinal Effects Study through Grade 10 \(APPLES-10\)](#). Rutgers University.

- A \$1,000 per-pupil per year increase each year for three consecutive years led to a full grade-level improvement in math and reading achievement across all grades.
- A \$1,000 per-pupil increase each year across all four years of high school for low-income students increased graduation rates by 5 percentage points.
- A \$1,000 per-pupil increase each year between 9th and 11th grade increased the probability of meeting college readiness standards by 7.6 percentage points in math and 9 percentage points in reading.
- K-12 spending increases were more effective in increasing achievement when preceded by access to transitional kindergarten or preschool.<sup>3</sup>

Recent rigorous national studies show that increased school spending between the 1970s and 2010s led to positive long-term outcomes for students well into adulthood. For low-income children, a 10% increase in per-pupil spending each year for all 12 years of schooling was associated with:

- An additional half a year of completed education,
- 10% higher earnings,
- 6 percentage point reduction in the annual incidence of adult poverty.<sup>4</sup>

This evidence has helped demonstrate that money matters and that strategic investments can improve both the short- and long-term outcomes for students. Spending is most effective if targeted towards programs and initiatives that improve student achievement, including high-quality early education, prepared and experienced teachers, social-emotional supports, and community schools. Funding that is both predictable and flexible allows districts to invest in programs that meet their particular needs. With this backdrop, I'd like to turn to the essential components of a fair school funding system.

### **What is Fair School Funding?**

My work at ELC (NJ) is grounded in the belief that a fair school funding system is the central component necessary to guarantee every student's right to a constitutional education. At ELC (NJ) we define a fair funding system as one where all schools are provided with the funding needed to provide qualified teachers, support staff, programs, services and other resources essential for all students to have a meaningful opportunity to achieve a state's academic standards and graduate from high school prepared for citizenship, postsecondary education, and the workforce.

Crucially, fair funding has two basic components: 1) adequacy, or a sufficient level of funding for all students and 2) equity, where funding levels are differentiated to account for the reality that some students require additional resources to reach a common outcome.

Adequate funding means that school districts have the resources to provide students with the programs and services they need to achieve the state's curricular standards. Adequate funding supports everything from a high-quality workforce, up-to-date curriculum, safe and modern school buildings, social and

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<sup>3</sup> Education Law Center. 2023. [Money Matters: Evidence Supporting Greater Investment in PK-12 Public Education](#).

<sup>4</sup> Ibid.

emotional supports for students, access to technology, and more. Schools must be funded so that all buildings can provide these core educational services to their students.

A fair school funding system delivers equity by acknowledging that the cost of providing an adequate education varies according to student and district characteristics. All students do not enter school on the same footing, and students facing family or community poverty often require additional supports to ensure success. We define an equitable funding system as one that has a progressive distribution of funds so that high poverty districts receive additional dollars to support the academic and social needs of students who often face obstacles to learning.

These two features of fair funding are interdependent: funding must be both adequate and equitable to be fair. A funding system cannot achieve adequacy without equity and it cannot achieve equity without adequacy. A progressive distribution of funds is not fair if districts are not provided with the base level of funding needed to deliver the state's curricular standards. And a seemingly well-funded school system is not fair if additional funding is not targeted to those who need it.

### **Key Features of Fair School Funding Formula**

A fair school funding formula is an essential precondition for the delivery of a high-quality education for all students. It is each state's responsibility to develop a modern and equitable formula that clearly defines unique adequacy targets for each district, and then sets reasonable expectations for how the responsibility for raising revenue will be shared between state and local sources.

A good funding formula will ensure that these factors are met by:

- 1) *Aligning funding to state standards through adequacy targets*: Adequacy targets should be aligned with the cost of effectively delivering the standards and curriculum so that all students have the opportunity to succeed. Adequacy targets that are directly linked to the cost of teachers, support staff, administration, curriculum, professional development and more are what ensure that districts are able to deliver a constitutionally sound education. For example, after many attempts, New Jersey's Supreme Court only signed off on a school funding formula after the state developed a formula using this principle.<sup>5</sup>
- 2) *Centering students*: each district should have a unique funding target that is based on both overall enrollment and the characteristics of the student population. Research, and common sense, tell us that students from families near or at poverty, those who are learning English, and those with disabilities need additional resources to be successful, so a good formula will tie funding directly to those characteristics, often with the use of weights, where students in each category receive a percentage increase above the "base cost" for a typical student.
- 3) *Wealth equalization*: The formula must include a way to equitably share costs between the state and local municipalities so that some groups do not bear a greater financial burden simply because their property is worth less. Wealth equalization often uses community factors such as property values and personal income to determine how much each district can afford. These formulas should also consider the overall tax burden faced by communities. For example, urban communities may bear a greater burden because of expensive municipal services that rural or suburban areas do not provide. Wealth equalization will achieve equity only if all districts are able to meet their local revenue targets.

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<sup>5</sup> Education Law Center. [Linking Standards to Resources: New Jersey's School Funding Reform Act of 2008](#). 2014. Newark, NJ.

- 4) *Periodic review*: Formulas must be subject to periodic review to ensure that they keep pace with whatever curricular or policy changes are enacted by the state. Including a formal review period in legislation can help ensure that school finance stays current with education policy and practice. The intensity and scope of these reviews varies. For example, New Jersey internally produces an “Educational Adequacy Report” every three years but has only updated salary and benefit data that informs the base costs and other formula elements. It has never recalibrated the formula to adjust to significant changes in curricular standards over the last two decades. In contrast, Wyoming produces a recalibration report every five years that relies on external researchers to provide in-depth analysis of the resources included in the school funding model.

## **Implementation**

Once a state has a well-designed and equitable funding formula in place, implementation is key to making sure that the policy is successful. State finance reform must include a clear plan to phase in state funding to reach adequacy targets, strategically directing increases to the districts that are most below adequacy.

This can be done by setting a timeline for the state to reach 100% of state funding under the formula. When Illinois implemented their new funding formula they set deadline to reach full funding and targeted increases by creating tiers so that the districts furthest from adequacy received the largest annual increases.<sup>6</sup> New Jersey’s 2008 formula initially phased-in funding by providing 20% annual state aid increases for all districts below adequacy, until they reached their target, and 10% increases for districts above adequacy. New York recently recommitted to fully funding their Foundation Aid formula by increasing state aid by over \$4 billion in just three years.

Implementation must also include difficult conversations around hold harmless aid and phasing out state support for districts that are receiving more state aid than the formula would provide. In New Jersey, the formula initially included a category of “Adjustment Aid” to ensure that all districts received at least as much state aid as they did prior to the formula reform. Though the expectation was that this aid would eventually phase out over time as costs increased and districts were entitled to more state aid, changes in local share obligations and declining enrollment in some districts meant adjustment aid was actually expanding to more districts. The 2018 formula reform set a timeline to phase-out Adjustment Aid with annual percentage reductions to eliminate Adjustment Aid completely by year six. This change has been difficult for some districts, especially those who are below their local fair share and are prevented from raising revenue through property tax caps. ELC (NJ) has consistently recommended that adjustment aid cuts should not occur in any district spending below adequacy, unless districts are given the tools they need to reach their local funding targets, and thus the ability to reach or maintain adequate spending.<sup>7</sup>

## **Conclusion**

In closing, I would like to stress that creating an equitable and adequate funding system in Pennsylvania is within reach. The research is clear that school finance reform is a wise investment that leads to

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<sup>6</sup> McKillip, M. and Farrie, D. 2022. [How Long Must Illinois Students Wait for Fully Funded Schools?](#) Education Law Center. Newark, NJ.

<sup>7</sup> Farrie, D. 2018. [Understanding Adjustment Aid in New Jersey School Funding: A Case Study of Jersey City.](#) Education Law Center. Newark, NJ.

significant improvements in both short- and long-term academic and economic outcomes. The state has already laid the foundation for a school funding formula that will reverse decades of inequity that has deprived generations of students of their constitutional rights. Pennsylvania should act swiftly to improve the school funding formula as needed and set clear goals for implementation that prioritizes adequate funding for students who have been shortchanged for decades.

# Money Matters: Evidence Supporting Greater Investment in PK-12 Public Education

## Research Talking Points for Advocates

New research finds that increased spending on public education improves student achievement, thereby debunking the notion that “money doesn’t matter” and making the case for greater investment in preschool-12 public education. How money is spent matters, but funding must also be adequate, equitable, and stable from year to year so that districts can be strategic in their spending and not have to cut one school resource to target funding towards another. This was the focus of discussion during a November 30 [webinar](#) co-sponsored by Education Law Center, ETS, and the Learning Policy Institute (LPI), featuring leading school finance experts Dr. Linda Darling-Hammond (LPI), Dr. Rucker Johnson (University of California, Berkeley) and Dr. Jesse Rothstein (University of California, Berkeley), with a welcome address by ETS President and CEO Amit Sevak and moderated by ELC’s Executive Director David Sciarra. The research distilled below was discussed during the webinar and provides policymakers, stakeholders, and advocates with clear and tangible evidence to argue for greater investments in the public schools in their states.

### **1) *New research using rigorous methods finds money does matter and identifies flaws in prior research***

Recent studies using rigorous research methods find that students in states that invest more money in their public schools have higher test scores, greater educational attainment, and higher earnings. While money does not eliminate achievement gaps, it can shrink them.

Examples of research findings:

- States that passed major school finance reforms between 1990 and 2011 spent more on schools in low-income districts than states without reforms, which led to increased test scores in those districts.
  - Funding increases tended to be progressive, with low-income districts receiving about \$950 more per-pupil compared to about \$350 per-pupil in higher income districts.<sup>1</sup>

- Increased school spending between 1972-2010 as a result of funding reforms led to positive long-term outcomes for students, including higher wages, higher family incomes, and lower poverty rates, especially for low-income children.<sup>2</sup>
  - For low-income children, a 10% increase in per-pupil spending each year for all 12 years of public schools was associated with 0.46 additional years of completed education, 9.6% higher earnings, and a 6.1 percentage point reduction in the annual incidence of adult poverty. Overall, this increase in spending led to 0.31 more completed years of education, 9% higher earnings, and a 3.2 percentage point reduction in the annual incidence of poverty in adulthood.
- California's Local Control Funding Formula (LCFF), passed in 2013, increased state support to schools by \$18 billion over eight years after a history of low school funding. LCFF-induced increases in school spending increased high school graduation rates and academic achievement, especially for poor and minority students.<sup>3,4</sup>
  - A \$1,000 per-pupil increase for three consecutive years led to a full grade-level improvement in math and reading achievement across all grades.
  - A \$1,000 per-pupil increase across all four years of high school for low-income students increased graduation rates by 5 percentage points.
  - A \$1,000 per-pupil increase between 9<sup>th</sup> and 11<sup>th</sup> grade increased the probability of meeting college readiness standards by 7.6 percentage points in math and 9 percentage points in reading.
- Further research finding positive impacts of LCFF implementation on earlier age academic achievement outcomes and student behavior problems and discipline, as well as positive impacts of transitional kindergarten on later elementary school reading and math achievement for low-income students, is forthcoming.<sup>5,6</sup>
  - A \$1,000 increase across three consecutive years, coupled with a set of legal and educational reforms, reduced suspension/expulsion rates among 9-11<sup>th</sup> grade boys by 4 percentage points, and by 11-12 percentage points among black boys.
  - K-12 spending increases were more effective in increasing achievement when preceded by access to transitional kindergarten (preschool).

Prior studies finding that increased school funding does not improve test scores looked at general patterns and national funding increases from the 1960s to 1970s and 1990s.<sup>7</sup> The main flaw of these studies was that they did not account for contextual factors that are associated with increased spending on education. For example, new accountability goals and requirements expanded the population served by public schools. Spending on supports for students with severe disabilities has increased dramatically, but this spending is not intended to improve test scores. Likewise, declining dropout rates have led to higher enrollments in the older grades, though these students are less likely to be high achievers on state assessments and may actually depress test scores.<sup>8</sup>

## **2) How money is spent matters**

Research has identified the importance of targeting spending on programs and initiatives that improve student achievement, including high quality early education, prepared and experienced teachers, social-emotional supports, and community schools. Funding that is both predictable

and flexible allows school districts to focus spending on the needs of the local community, rather than being dictated by the state through restricted categorical grants.<sup>9</sup>

Examples of research findings:

- High quality preschool boosts achievement and reduces special education placements and grade retention.<sup>10</sup> For poor children, the long-term effects of K-12 spending double when preceded by access to high-quality preschool. For example, a 10% increase in school spending led to 13% higher adult wages without access to Head Start, and 20% higher wages with Head Start.<sup>11</sup>
- Students experience larger achievement gains when instructed by highly qualified teachers: experience, credentials, and stability matter.<sup>12</sup>
- Social-emotional supports and restorative practices improve achievement, graduation, and mental health.<sup>13</sup>
- Being in a community school with wraparound supports improves achievement and graduation rates.<sup>14</sup>
- 84-95% of the variation in California's LCFF spending effectiveness at the school district level can be explained by reduced class sizes, increased teacher salaries, lower teacher turnover, greater guidance/health services, and teacher professional development.<sup>15</sup>

### **3) Positive examples of policy implementation**

School finance litigation in Connecticut, New Jersey, and Massachusetts resulted in the funding and implementation of significant school reforms that raised student achievement and substantially narrowed achievement gaps.<sup>16</sup>

- Connecticut raised teacher salaries; raised standards for teacher education, entry, and professional licensing; introduced mentoring and performance assessments for beginning teachers and principals; emphasized principals' ability to support instruction; invested in high-quality professional development in reading, writing, math and science; and developed standards and assessments focused on student performance and problem solving.
- Massachusetts introduced a weighted student funding formula and increased funding, invested in preschool and health care for children, raised standards for teaching and teacher education, established student standards with high-quality open-ended assessments, fostered school redesign, and pursued steady policies for more than 15 years.
- New Jersey invested in parity funding and high-quality preschool for high need districts, curriculum and assessments focused on thinking skills, strong bilingual education, teacher and leader learning investments, and whole school reform models that personalize and support instruction with the whole child in mind.

### **4) School funding reform and school integration are intertwined**

Due to historical and persistently high levels of racial and economic segregation, underfunded schools tend to be found in districts with higher segregation concentration by race and poverty, with white students clustering in higher-income school districts, and Black and Latino students clustered in higher poverty schools.

- School funding reform efforts cost more in states where there are high levels of school segregation. In these states, the cost burden of school reform falls more heavily on the state because of the added costs of mitigating concentrated poverty and the reduced ability of poor communities to contribute substantial local funds.<sup>17</sup>
- School desegregation efforts are hindered when schools with the most concentrated poverty (often serving significant numbers of racial and ethnic minorities) are the ones that are under-resourced. Families with financial means that have other options are not going to choose school systems that are under-resourced.<sup>18</sup>
- Integration must involve systemic change that starts early at the preschool level.<sup>19</sup>

## The Need for School Finance Reform

The growing body of research finding that money does indeed matter for improving student outcomes, especially in the case of vulnerable student populations, underscores the urgent need for school finance reform in the states. We know that most states fail to provide fair, equitable, and adequate funding to ensure that all students have access to well-resourced and academically successful schools.<sup>20</sup> State-level school finance reforms are widely needed but notoriously difficult to enact and sustain. School funding campaigns require a long-term commitment from advocates and policymakers to ensure all students have access to their constitutionally guaranteed right to education. The research presented here is an essential component of the multi-faceted approach necessary to sustain these campaigns, along with focused political efforts, grassroots organizing, strategically timed litigation, and an aggressive communications strategy.<sup>21</sup> The ability to clearly and convincingly demonstrate the benefits of increased school funding is essential for moving these campaigns forward.

<sup>1</sup> Lafortune, J., Rothstein, J., & Schanzenbach, D. W. (2018). [School Finance Reform and the Distribution of Student Achievement](#). *American Economic Journal: Applied Economics*, 10(2), 1–26.

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<sup>3</sup> Johnson, R. C. & Tanner, S. (2018). [Money and Freedom: The Impact of California's School Finance Reform on Academic Achievement and the Composition of District Spending](#). Palo Alto, CA: Learning Policy Institute.

<sup>4</sup> Johnson, R. C. (forthcoming). "The Anatomy of School Spending Effectiveness." NBER working paper, Cambridge, MA.

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<sup>6</sup> Education Law Center, ETS, Learning Policy Institute. (2022). [Money Matters: Evidence Supporting Greater Investment in PK-12 Public Education](#) [Webinar].

<sup>7</sup> Hanushek, E. (1998). [Conclusions and Controversies about the Effectiveness of School Resources](#). *Economic Policy Review*, 4, 11-27.

<sup>8</sup> Jackson, C. K., Johnson, R. C., & Persico, C. (2015, July 17). [Money Does Matter After All](#). *Education Next*; EducationWeek. (2019, September 25). [Data: Breaking Down the Where and Why of K-12 Spending](#). September 25, 2019.

<sup>9</sup> Weston, M. (2011). [California's New School Funding Flexibility](#). San Francisco, CA: Public Policy Institute of California; Johnson, R. C., Tanner, S. (2018). [Money and Freedom: The Impact of California's School Finance Reform](#). Palo Alto, CA: Learning Policy Institute.

<sup>10</sup> Heckman, J. J., Seong, H. M., Pinto, R., Savelyev, P. A., & Yavitz, A. (2010). [The rate of return to the HighScope Perry Preschool Program](#). *Journal of Public Economics*, 94(1-2), 114-128; Wechsler, M., Kirp, D., Tinubu Ali, T.,

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- <sup>11</sup> Johnson, R. C., and Jackson, C. K. (2019). [Reducing Inequality through Dynamic Complementarity: Evidence from Head Start and Public School Spending](#). *American Economic Journal: Economic Policy*, 11(4), 310-349.
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